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SUPREME COURT OF THE UNITED STATES.

No. ~~155~~. 77.

HENRY B. CROMWELL, CLAIMANT OF THE STEAMER PIEDMONT, HER TACKLE, &c., APPT.,

vs.

STEPHEN LARRABEE AND AL.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

GEO. S. GIDEON, printer, 511 Ninth street, Washington, D. C.

Dismissed with costs
7 Feb. 1862

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UNITED STATES OF AMERICA,
Southern district of New York, ss.

I, Kenneth G. White, clerk of the circuit court of the United States of America, for the southern district of New York, in the second circuit, do hereby certify that the writings annexed to this certificate are true copies of their respective originals on file, and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this [L. S.] first day of December, in the year of our Lord one thousand eight hundred and fifty-nine, and of the independence of the said United States the eighty-fourth.

KENNETH G. WHITE, *Clerk*.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Saturday, the nineteenth day of March, in the year of our Lord one thousand eight hundred and fifty-nine. Present: the honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and others
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.
} *Vol.* 13, *page* 337.

May 6, 1856. The libellants file their libel in the words and figures following, to wit:

To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York.

The libel of Stephen Larrabee, Philip Larrabee, John Larrabee, Daniel Larrabee, Zina A. Robinson, William Burk, Samuel Tarbox, James Auld, Samuel Tarbox, jr., and Augustus Palmer, owners of the American brig or vessel called the "Philip Larrabee," of Bath, in the State of Maine, whereof James Auld now is or late was master, against the steamboat called the "Piermont," of New York, whereof Sanders now is or late was master, her tackle, apparel and furniture, and against all persons lawfully intervening for their interest therein, in a cause of collision civil and maratime, allege and articulately propounds as follows:

First. That said libellants, before and at the time of the collision hereinafter in the third article mentioned, were the owners and proprietors of the said brig or vessel called the "Philip Lar-

rabee," of Bath, in the State of Maine, and her tackle, apparel and furniture, whereof James Auld now is and then was master.

Second. That on or about the twenty-third day of August, 1855, the said brig "Philip Larabee," whereof said James Auld was master, sailed from the port of Jacksonville, Florida, having on board a cargo of lumber and merchandise, worth about five thousand dollars, on a voyage to the port of Boston, Massachusetts, and was at that time staunch, strong and tight, well built, of the burthen of two hundred and eighty-three tons or thereabouts, then completely rigged and sufficiently provided with tackle, apparel and furniture, and then had on board a full compliment of hands to navigate the said brig on the said voyage above mentioned.

Third. That on or about the second day of September, 1855, said brig came to anchor off Holmes' Hole Harbor, a good, safe and proper place for said brig to anchor, and to lie at anchor; that on the third day of said September, at seven o'clock in the afternoon of said day, a light on board of said brig was hoisted into the starboard rigging and there exhibited till after the collision next hereinafter mentioned, and the proper and usual watch set and kept; that at or about eleven o'clock in the afternoon of said third day of September, the said master had all hands called to hoist anchor for the purpose of proceeding on the said voyage to Boston; that while the hands were getting on deck, the said steamboat called the "Piedmont" came down directly towards said brig from the eastward; that said master and said hands called out to said steamboat to keep off or she would run said brig down; that it was the duty of said steamboat to keep off, and which said steamboat could easily have done, as there was ample room for her to pass said brig without running into her, and the weather was clear and fair, and the wind light at that time; but that said steamboat paid no attention to said warning, but came directly down upon said brig, striking said brig on the starboard quarter and cut the stern of said brig completely off, and carried away the boat of said brig then hanging at the davits, started the poop and main decks, damaged the main boom and rigging of said brig, broke the steering wheel and knocked overboard from under deck a large amount of rigging, furniture, supplies and merchandise; that said master of said brig immediately called out to said steamboat to lie by said brig, as she was sinking from the effects of the collision, but said steamboat paid no attention to said call, but kept on her course, without affording or offering the slightest assistance to said brig.

Fourth. That at the time said collision and damage mentioned in the next preceeding article happened, it was impossible for the said brig "Philip Larrabee" to get out of the way of the said steamboat Piedmont, by reason that the former was properly moored and lying at anchor; that there was room enough for

the said steamboat Piedmont to steer clear and pass by the sai l brig "Philip Larrabee without doing any damage whatever, and if the master and crew of said *said* steamboat Piedmont had not refused or at least neglected to endeavor to keep clear of the said brig Philip Larrabee, which it was their duty to do, and which they might easily have done, since it was a clear starlight night with a light wind, and the said brig showed a light in her rigging, the aforesaid collision and damage would not have happened.

Fifth. That the said brig Philip Larrabee, before and at the time of reciving said damage from said steamboat Piedmont, as hereinbefore mentioned, was staunch, tight, and strong, but that she was so injured and disabled by the force and violence with which she was struck by the said steamboat Piedmont as to cause the said brig to leak badly, and to put her in imminent danger of sinking; that after strenuous exertions on the part of the said master and crew of said brig, they got the said brig underway at or about four o'clock in the morning of the fourth day of said September, and the wind being light, and the sea smooth, they succeeded in reaching with the said brig the harbor of Edgartown, a distance of about six miles from the spot where the collision occured; that at said Edgartown said brig, by reason of said collision, was compelled to undergo repairs to enable her to take her said cargo to said Boston without sinking; that after a delay of about two weeks at the said Edgartown for said repairs, said brig proceeded on her said voyage to Boston, where she arrived the latter part of said September, and that by reason of the damage suffered by said brig from said steamboat, the said libellants, owners of said brig, were compelled to take, and did take said brig upon the way at East Boston, Massachusetts, at great expense and loss to themselves to repair her; that they have suffered damages in the premises for the repairs of said brig at said Edgartown and at said East Boston, and in the loss of tackle, apparel and furniture of said brig, and in the detention of said brig, and in the expenses caused by the detention, to the amount of four thousand dollars, all of which said damages were occasioned by the negligence, want of skill, and improper conduct of the persons navigating the said steamboat, and not by or through any fault, negligence, or improper conduct on the part of the persons on board the said brig Philip Larrabee, her master and crew.

Sixth. That since the said brig Philip Larrabee was so run afoul of, and into as aforesaid, these libellants have applied to the owners or agents of said steamboat Piedmont, and requested them to settle with the libellants for the damages sustained by them as above mentioned, but the said owners or agents denied that there is any liability on the part of said steamboat Piedmont for the said damages or any part thereof.

Seventh. That the said steamboat Piedmont is now lying in the port of New York, and within the jurisdiction of this court.

Eighth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court. Wherefore, the libellants pray that process in due form of law according to the course of this honorable court in cases of admiralty and maritime jurisdiction may issue against the said steamboat Piedmont, her tackle, apparel and other furniture, and that all persons having any interest therein, may be sighted to appear and answer all and singular the matters aforesaid, and that this honorable court would be pleased to decree the payment of the damages as aforesaid, and that the said vessel may be condemned and sold to pay the same, and that the libellants may have such other and futher relief as in law and justice they may be entitled to receive.

STEPHEN LARRABEE.

Sworn to before me this 6th day of May, A. D. 1856.

GEO. F. BETTS, *U. S. Comr.*

DEXTER A. HAWKINS,
Proctor for libellants, 10 *Wall street.*

Endorsed 13,337, U. S. district court. Stephen Larrabee and others agt. the steamboat Piedmont, her tackle, &c. Libel.
Filed 6th May, 1856.

District court of the United States for the southern district of New York.

Stipulation for libellant's costs entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court, on the sixth day of May, in the year of our Lord one thousand eight hundred and fifty-six, by Stephen Larrabee and als. against the steamboat Piedmont, her engine, tackle, &c., for the reasons and causes in the said libel mentioned, and praying that said steamboat may be condemned and sold to pay the demands of the libellants, and the said libellants and Chas. C. Duncan, surety, parties hereto, hereby consenting and agreeing, that in case of default or contumacy on the part of the libellants or their surety execution may issue against their goods, chattels, and lands for the sum of two hundred and fifty dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be, and each of them is bound in the sum of two hundred and fifty dollars, conditioned that the libellants above named shall appear and answer to the cause, and to interrogatories, and shall pay all such costs as shall be awarded against them by this court, or in case of appeal, by the appellate court.

STEPHEN LARRABEE,
CHAS. C. DUNCAN.

Taken and acknowledged this sixth day of May, 1856, before me.

GEO. F. BETTS,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Chas. C. Duncan, party to the above stipulation, being duly sworn, doth depose and say, that he resides in the city of Brooklyn; that he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

CHAS. C. DUNCAN.

Sworn to this sixth day of May, 1856, before me.

GEO. F. BETTS,
U. S. Commissioner.

Recorded the 6th day of May, 1856.

GEO. F. BETTS, *Clerk.*

Filed the sixth day of May, 1856.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

The President of the United States of America to the marshal of the southern district of New York, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of New York, on the sixth day of May, in the year of our Lord one thousand eight hundred and fifty-six, by Stephen Larrabee and al. against the steamboat Piedmont, (collision $4,000,) for the reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said steamboat or vessel, her tackle, &c., may be cited in general and special to answer the premises, and all proceedings being had that the said steamboat or vessel, her tackle, &c., may, for the causes in the said libel mentioned, be condemned and sold to pay the demands of the libellant:

You are therefore hereby commanded to attach the said steamboat or vessel, her tackle, &c., and to detain the same in your custody, until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having any thing to say why the same should not be condemned and sold pursuant to the prayer of the said libel, that they be and appear before the said court, to be held in and for the southern district of New York, on the 27th day of May inst., at eleven o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall

have done in the premises, do you then and there make return thereof, together with this writ.

Witness the honorable Samuel R. Betts, judge of the said court, at the city of New York, in the southern district of New [L S.] York, this sixth day of May, in the year of our Lord one thousand eight hundred and fifty-six, and of our independence the eightieth.

GEO. F. BETTS, *Clerk.*

D. A. HAWKINS,
Proctor for Libellants.

Monition ret'ble 27th May, 1856.

D. A. HAWKINS,
Proctor for Libellants.

I hereby depute Luther Horton to execute the within process. Dated 6th May, 1856.

AB. T. HILLYER,
U. S. Marshal.

In obedience to the within monition, I attached the steamboat Piedmont, therein described, on the 6th day of May, and have given due notice to all persons claiming the same, that this court will, on the 27th day of May inst., (if that day should be a day of jurisdiction, if not, on the next day of jurisdiction thereafter,) proceed to the trial and condemnation thereof, should no claim be interposed for the same.

AB. T. HILLYER, *U. S. Marshal.*

Dated 27th May, 1856.

District court of the United States for the southern district of New York.

Stipulation entered into pursuant to the rules and practice of this court.

Whereas a libel was filed in this court on the sixth day of May, in the year of our Lord one thousand eight hundred and fifty-six, by Stephen Larrabee and als. against the steamboat Piedmont, for the reasons and causes in the said libel mentioned, and praying that the said steamboat may be condemned and sold to pay the demands of the libellants; and the parties hereto hereby consenting, that in case of default or contumacy on the part of the claimants or their surety execution for the sum of two hundred and fifty dollars may issue against their goods, chattels, and lands:

And whereas, also, a claim has been filed in said cause by Henry B. Cromwell: now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulator undersigned shall be, and each of them is, hereby bound in the sum

of two hundred and fifty dollars, conditioned that the claimants above named shall pay all costs and expenses which shall be awarded against them by the final decree of this court, or upon an appeal, by the appellate court.

H. B. CROMWELL.
WM. D. CROMWELL.

Taken and acknowledged, this 7th day of May, 1856, before me.
JOSEPH BRIDGHAM,
U. S. Commissioner.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

William D. Cromwell, party to the above stipulation, being duly sworn, doth depose and say, that he resides in the district of New York; that he is worth the sum of five hundred dollars, over and above all his just debts and liabilities.

WM. D. CROMWELL.

Sworn to this 7th day of May, 1856, before me.
JOSEPH BRIDGHAM,
U. S. Commissioner.

Recorded seventh day of May, 1856.
G. F. B., *Clerk.*

Filed the 7th day of May, 1856.

At a stated term of the district court of the United States of America for the southern district of New York, held at the city hall, in the city of New York, on Wednesday, the 7th day of May, in the year of our Lord one thousand eight hundred and fifty-six. Present: the honorable Nathan K. Hall, district judge.

THE STEAMBOAT PIEDMONT *asm.* STEPHEN LARRABEE and als. } 13,337.

On filing claim and stipulation for claimant's costs, together with a bond under the act of Congress in double the amount claimed, approved by the district judge, on motion of Beebe, Dean, and Donohue, proctors for the claimants, it is ordered that a copy of this order be delivered to the marshal.

Order to marshal: Filed the 7th day of May, 1856.

Claim of Henry B. Cromwell for self and others.

At a stated term of the district court of the United States of America for the southern district of New York, held at the city hall, in the city of New York, on Wednesday, the 7th day of May, in the year of our Lord one thousand eight hundred and fifty-six. Present: the honorable Nathan K. Hall, district judge.

THE STEAMBOAT PIEDMONT
asm.
STEPHEN LARRABEE and als.

And now, Henry B. Cromwell, intervening for the interest of himself and others as owners of said steamboat, appears before the honorable court and makes claim to the said steamboat, as the same are attached by the marshal, under process of this court, at the instance of Stephen Larrabee; and the said Henry B. Cromwell avers that he was in possession of the said vessel, her tackle, &c., at the time of the attachment thereof, and that the person above named the true and bona fide owners of the said steamboat, and that no other person is the owner thereof; and the said Henry B. Cromwell is the true and lawful bailee thereof, as part owner; wherefore he prays to defend accordingly.

H. B. CROMWELL.

Sworn to and subscribed this 7th day of May, A. D. 1856, before me.

GEO. W. MORTON,
U. S. Commissioner.

BEEBE, DEAN, & DONOHUE,
Proctor for Claimant.

Filed the seventh day of May, 1856.

Order for time to answer and short publication of notice.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Tuesday, 27th day of May, in the year of our Lord one thousand eight hundred and fifty-six. Present: the honorable Charles A. Ingersoll, district judge.

STEPHEN LARRABEE et al.
vs.
STEAMBOAT PIEDMONT, &c.
Vol. 13, page 337.

The marshal having returned on the monition issued in the above entitled cause, "the steamboat Piedmont attached, and no notice given:

On motion of Beebe, Dean, and Donohue, proctors for the claimants, it is ordered that the appearance of the claimants be entered, and that they have ten days to file and perfect their answer.

On motion of Mr. Hawkins, proctor for the libellants, ordered, that the marshal publish notice in this cause until the third day of June next.

Filed the 27th day of May, 1856.

To the honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York.

The answer of Henry B. Cromwell, owner of the steamer Piedmont, to the libel of Stephen Larrabee and others against the steamer Piedmont, respectfully shows:

First. That as to the matters stated in the first article of the libel, respondent and claimant is ignorant, and therefore denies the same.

Second. And respondent further answering, says that he having no knowledge of the matters stated in the second article of the libel, denies the same.

Third. And respondent and claimant further answering, says, that on information and belief he denies the statements in the third article of the libel.

Fourth. Repondent further answering, says, that he denies the statements in the fourth article of the libel.

Fifth. And respondent further answering, denies the statements in the fifth article of the libel.

Sixth. Respondent admits that he has always denied that the said steamer Piedmont ran afoul of, or was liable to said brig or owners for damages.

Seventh. That all and singular the statements herein are true.

Wherefore, the claimant prays that the libel herein be dismissed with costs to be taxed, or for such relief as may be just.

HENRY B. CROMWELL,
By JOHN RILEY, *Agent.*

Sworn to before me this 1st day of July, A. D., 1856.
FREDK. SMITH, *Not. Public.*
BEEBE, DEAN & DONOHUE, *for Respt.*

Endorsed, 13,337.—U. S. district court.

STEPHEN LARRABEE and others,
vs.
THE STEAMER PIEDMONT, her tackle, &c.

Answer.
BEEBE, DEAN & DONOHUE,
Clmt's Proctors.

Filed July 3, 1856.

Order to open and file depos.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Saturday, the 4th day of October, in the year of our Lord one thousand eight hundred and fifty-six. Present: the honorable Charles A. Ingersoll, district judge.

STEPHEN LARRABEE & ors.
vs.
THE STEAMBOAT PIEDMONT, &c.
} Vol. 13, page 337.

The clerk having this day received by mail the depositions taken on the part of the libellants in the above entitled cause:

Ordered, That they be opened and filed.
Filed the 4th day of October, 1856.

Order to open and file depositions.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Saturday, the 15th day of November, in the year of our Lord one thousand eight hundred and fifty-six. Present: the honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE & ors.
vs.
THE STEAMER PIEDMONT, &c. } Vol. 13, page 337.

Geo. F. Betts, clerk of this court, having this day received by mail the depositions taken on the part of the libellants in the above cause:
Ordered, That they be opened and filed.
Filed the 15 day of Nov., 1856.

MONDAY, Sept. 28, 1857.

U. S. District Court.

STEPHEN LARRABEE and al., owners of the brig Philip Larrabee,
vs.
THE STEAMBOAT PIEDMONT, Cromwell and others, clts. } D. H. Hawkins, for libls. Bebee & Donohue, for clts.

Collision, Sept., 1855, at Holmes' Hole Harbor.

☞ Ownership not in contestation for liblts.

George Anderson, deposition, one of crew of brig.—See page 22.
Francis Ward, do. do. do. do. 39
Francis King, do. cook and steward, do. 28
Hartley Clifford, do. 1st mate, do. 33
Thomas Saunders, do. master of steamboat Piedmont.—See page 36.

Tuesday, Sept. 29th, continued.

D. A. Hawkins, sworn, June 9th, 1856: Went on board steamer Piedmont and asked master to see log-book; he referred witness to first officer; he being ashore, master referred wit. then to 2nd mate, who exhibited to wit. log-book of 1855, and witness found entry of Monday, Sept. 3d, 1855, which witness now produces; whilst making copy 1st officer came on board and saw copy was making, and said the copy was from log of boat.

Cross-examined. Did not know either those officers, 1st or 2d mates. Capt. designated to wit. 1st officer, and the 1st officer said he was, and crew called him so.

Mr. Donohue argues the case for claimants.
Mr. Hawkins " " " " libellants.

Cur. adv. valt.

Depositions taken and used in evidence before the referee, under stipulations at pages 44 and 45, viz:

Page 47.—Abraham Osborne, Edgartown.

49.—Samuel Pierce,
51.—Frederick Curtis,
56.—Jonathan W. Tucker,
57.—Charles Simmons,
59.—James Martin,
60.—Jonathan H. Cherry,
61.—Nathan W. Bridge.
} Boston.

63.—James Auld,
64.—Francis King,
65.—Benjamin Small,
66.—Lincoln Webb,
67.—John Woolston.
} Bath, Me.

Decree for lib. and referee.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Monday, the fifth day of October, in the year of our Lord one thousand eight hundred and fifty-seven. Present: the honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and others
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.

This case having been heard on the pleadings and proof, and agreed by the advocates for the respective parties, and due deliberation being had in the premises, it is now ordered, adjudged and decreed by the court, that the libellants recover in this action the damages by him sustained by the collision in the pleadings mentioned, together with his costs to be taxed; and that it referred to one of the commissioners of this court to ascertain and compute the said damages, and to report the same to the court with all convenient speed.

Signed, SAM. R. BETTS.

Filed the fifth day of October, 1857.

Decree for libelts. referred to J. Bridgham, Com'r to assess damages.

U. S. district court.

STEPHEN LARRABEE and al.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.

Saturday, Dec'r 11, 1858.

Reference before Com'r Bridgham, opened Dec. 11, 1858, at 10 a. m.

D. A. Hawkins appearing for libellants, and Mr. Donohue for respondents.

The following papers were read or put in evidence on behalf of libellants.

Libel answer and decree.

1. Deposition of George Anderson, (where damaged and repaired at Edgartown.)—S. p. 22.
2. Deposition of Francis King.—See p. 28–64.
Do. do.
3. Deposition of Hartley Clifford. (Survey and repairs at Edgartown.)—See p. 33.
4. Deposition of Thomas Saunders, capt. of Piedmont. (Collision, and where damaged.)—S. p. 36.
5. Deposition of Francis Ward, where damaged, and repairs at Edgartown.—See p. 39.
6. Part of deposition of James Auld. (Survey and part repair at Edgartown, and survey and repairs at Boston.)—Not in.
7. Stipulation filed June 22, 1858.—See p. 44.
8. Stipulation filed Dec. 8, 1858.—See p. 45.
9. Deposition of Abraham Osborne. (Repairs, &c., at Edgartown, and demurrage.)—See p. 47.
10. Depositions of Samuel Pearce, (surveyor,) Frederick Curtis, (shipwright,) Jonathan M. Tucker, (ship carpenter,) Charles Simmons, (ship joiner,) James Martin, (scraping, &c.,) Jonathan H. Cheney, (ship broker,) and Nathan W. Bridger, (ship broker.) Repairs at Boston and demurrage.—See p. 44 to 62.
11. Deposition of James Auld, (master,) Francis King, (cook,) Lincoln Webb, (master mariner,) and John Wolston, (master shipbuilder.) Cargo lost and value.—See p. 63.

Reference adjourned to Wednesday, Dec. 15, 1858, at 10 a. m.

D. A. HAWKINS,
Pro'r for Libel'ts.

(Endorsed 71,) 13,337.—United States district court.

STEPHEN LARRABEE et al.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.

Testimony on reference $17.52.

Order to open and file depositions.

At a stated term of the district court of the United States of America for the southern district of New York, held at the city hall, in the city of New York, on Monday, the 12th day of July, in the year of our Lord one thousand eight hundred and fifty-eight. Present: the honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and als.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c. } 13,337.

The clerk having this day received by mail the depositions taken at Boston in this cause:
Ordered, That the same be opened and filed.
Filed the 12th day of July, 1858.

Order to open and file depositions.

At a stated term of the district court of the United States of America, for the southern district of New York, in the second circuit, held at the city hall, in the city of New York, on Friday, the 30th day of July, in the year of our Lord one thousand eight hundred and fifty-eight. Present: the honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and al.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c. } 13,337.

The clerk having this day received by mail the depositions taken at Bath, Maine, on the part of the libellants:
Ordered, That same be opened and filed.
Filed the 30th day of July, 1858.

Order to open and file depos. of James Auld.

At a stated term of the district court of the United States of America, for the southern district of New York, in the second circuit, held at the city hall, in the city of New York, on Tuesday, the 3rd day of August, in the year of our Lord one thousand eight hundred and fifty eight. Present: The honorable Charles A. Ingersoll, district judge.

STEPHEN LARRABEE and ors.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c. } Vol. 13, page 337.

The clerk having this day received by mail the deposition of James Auld, taken on the part of the libellants:
Ordered, That same be opened and filed.
Filed the 3rd day of August, 1858.

Order to open and file depositions.

At a stated term of the district court of the United States of America, for the southern district of New York, in the second circuit, held at the city hall, in the city of New York, on Wednes-

day, the 1st day of September, in the year of our Lord one thousand eight hundred and fifty eight. Present: the honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and ors.
vs.
THE STEAMER PIEDMONT, her tackle, &c. } Vol. 13, page 337.

The clerk having this day received the depositions taken before Jos. T. Pease, notary public at Edgartown:

Ordered, That same be opened and filed.

Filed the 1st day of September, 1858.

I, George Anderson, of Bath, county of Sagadahoc, and State of Maine, of lawful age, on oath depose and say, and make answer to the following interrogatories:

Questions by Dexter H. Hawkins, atty. for libellants:

1st. What is your name, residence, occupation, and age?

Answer. My name is George Anderson; I reside in Bath, Maine; my occupation is that of a seaman; I am twenty-two years old; have been to sea twelve years.

2d. Were you on board the brig Philip Larrabee last August and September; if yea, in what capacity, and from what port; to what port was said brig bound, and what was her cargo, and how many hands did said brig carry?

Answer. I was on board the brig Philip Larrabee last August and September; I was an able seaman on board said brig; the brig was from Jacksonville, Florida, bound to Boston, Massachusetts; her cargo was lumber; the brig carried eight hands all told, four able seamen, one cook, two mates and the captain.

3d interrogatory. Did you come to anchor at any place on said voyage before arriving at Boston; if yea, state the day and cause of coming to anchor, and the place where?

Answer. We came to anchor in Holmes' Hole on the second day of September, A. D. 1855, on Sunday morning; it was a squally, stormy night; that is the reason we anchored.

Answer objected to because the proctor for libellant called the witnesses attention to a map, and pointed out places thereon in reference to this matter, and to the answer, and which map is not made a part of this deposition.

4th interrogatory. What are the points of land called on each side of Holmes' Hole?

Answer. I do not know the name of the points.

5th interrogatory. Draw a line from one point to the other; was the brig anchored outside or inside of this line?

(Question objected to.)

Answer. She was anchored on a level between two points.

(Answer objected to as not responsive to the interrogatory.)

6th. What do you mean by about on a level between two points?

Answer. I mean if you draw a line on a level, the vessel was about on a line between those points.

7th interrogatory. State particularly, so far as you know, all that took place on or about said brig Phillip Larrabee, on said Sunday afternoon and night?

Answer. She came to anchor about three o'clock on Sunday morning, September the second, and furled the sails. After the sails were furled we pumped the vessel out. Then we went below, all but one man, who staid on deck; that man was Francis Ward. About ¼ before 11 o'clock heard him run from forward to aft; I heard him sing out, "steamboat, keep away." I then came on deck, as he made such a noise; soon as I got on deck I saw a steamboat running down towards us; I called to the steamboat to keep away; the steamboat paid no attention to it; she kept on her course, and run down and struck us about seven or eight feet forward of the "davit," on the starboard quarter, carrying away all the vessel's stern, and what there was in the vessel's run. The steamer kept on her course, not inquiring about any damage. All hands came on deck as soon as the steamer struck. After the steamer passed we went to the pumps; we found her leaking some, and pumped about one half hour; then some went below and some stopped on deck; I went below; came on deck at four o'clock; got our anchor, made sail, and started for Edgartown; we arrived there about 8 o'clock, and anchored in the harbor; about one-half an hour afterwards hauled into the wharf; the captain then went to get carpenters to repair the vessel; carpenters came and repaired the vessel; we remained there fifteen days, and sailed for Boston; carpenters worked about twelve or thirteen days repairing the vessel; we turned in about eight o'clock on Sunday evening; we had a light put up in the fore rigging about seven o'clock; it was a white light; don't recollect how the wind was at the time of the collision; the weather clear and fine on Sunday; there was a good moon; it had been up two or three hours; no fog at all; no fog on the water; could see a vessel two or three miles; saw lights on board the steamer; cannot tell how many, nor what kind they were; there was about a mile inside and a mile and one half outside where vessels could pass; we were at anchor in about eight or ten fathoms of water; don't recollect which way the brig headed at the time of the collision; it was about slack tide; the steamboat was heading when she struck the brig about west northwest; I think she was going about six or seven knots; saw only one man on board the steamboat at the time of the collision; he was at the wheel; the steamboat was painted all black; was fore and aft rigged; her sails were all furled; she was a propeller boat; she had two masts; the captain halloed to steamer after she struck; they gave no answer; cannot tell the name of the steamer; there was a light breeze all night

from the northwest: captain Auld staid on deck all night after the brig was run down; after we repaired the vessel we sailed for Boston; in two days and one night we arrived at Boston without accident; I then left the vessel after one day, and came to Bath.

Questions by Bronson & Sewall, attys. for libellants.

1st. When did you leave Jacksonville in the brig?

Answer. I do not recollect.

2d. On which side of the vessel did the moon shine when you came on deck?

A. On the starboard side.

3d. Was it high or low water slack when the collision took place?

Answer. About slack high water.

4th. Which way did the head of the brig lay when you got the anchor at four o'clock on the morning of Monday?

Answer. I do not recollect.

5th. What was the weather during the Sunday before the collision?

Answer. It was fine weather all day on Sunday, September 2d.

6th. What was the state of the sea during the day previous and at the time of the collision?

Answer. It was smooth.

7th. Have you ever before anchored at Holmes' Hole?

Answer. No, I have not.

8th. How far from the east chop did the brig lay?

Answer. About one mile and a half.

9th. How near were vessels anchored to you?

Answer. Some within a quarter of a mile and some within a half of a mile. They were on both sides.

10th. Did you speak or hail any of these vessels after the collision?

Answer. We did not.

11th. How far was the steamer when the Captain hailed her after the collision?

Answer. Right by.

12th. Who was on deck when you came on after the collision, at four o'clock?

Answer. The captain and second mate, and one of the foremast hands.

13th. Where was the watch when you came on deck before the collision?

Answer. On the quarter-deck hailing the steamboat.

14th. Did you go to sleep after you turned in at 8 o'clock, before the collision?

Answer. I did not go to sleep; the noise the man made on deck awakened me.

15th. Where was the light of brig when you came on deck?

Answer. It was hanging in the fore larboard rigging.

16th. Which way did the west point of land lay from the vessel as she laid at anchor?

Answer. It laid right astern.

17th. How far inside of the west chop did the vessel lay at the time of the collision?

(Question objected to by counsel for libellants.)

Answer. About three or four miles.

18th. What do you mean by inside and outside of the vessel in reply to what you said in your reply to the fourth interrogatory?

Answer. I mean the inside to be that side towards Holmes' Hole. I know the width of the channel; it is about three miles.

19th. Do you know of your own personal knowledge how wide that channel is?

Answer. I know nothing more than what I said in my former answer. I have no personal knowledge except what I have heard say about the channel.

20th. What is the depth of water in that channel?

Answer. I do not know.

21st. How far was the steamer from the brig when you came on deck?

Answer. About one quarter of a mile.

22d. What time was the watch set that night?

Answer. About eight o'clock.

23d. Who was left on deck when you turned in at 8 o'clock?

Answer. The watch; one man; I forgot his name; that watch continued one hour and one half. Francis Ward was called at the next watch; the watch after the collision continued one half hour; I left Capt. Auld on deck when I went below; I saw him afterwards on deck from the companionway; I went below but did not turn in.

24th. What were the damages done to the vessel by the collision?

Answer. The steamer carried away all the vessel's stern and quarter deck and started the quarter deck, and set the vessel leaking.

25th. How many men were there on the deck of the steamer when she passed the brig?

Answer. I only saw one at the wheel.

26th. How many smoke-pipes had the steamer?

Answer. One smoke pipe.

Questions by D. A. Hawkins direct resumed.

When you say in answer to the seventeenth interrogatory about three or four miles, what do you mean? State particularly where the vessel was lying.

Answer. I mean three or four miles from the point; that is all I have got to say about it.

In which direction from the west point?

(Objected to as leading by respondent's counsel.)

Answer. From the east side.

After you went below at 8 o'clock on the evening of the collision, state whether all hands were called before the collision? If yea, at what hour, by whom, and for what purpose.

Question objected to by respondent's counsel as leading.

Answer. All hands were called before the collision, at about half past nine o'clock; don't know who called them; called to get the brig underway.

Questions by Bronson & Sewall, atty's. for respondents.

How did Holmes' Hole light bear from the brig as she lay at the time of the collision?

Answer. I do not know how it bore; I saw the light; did not take notice how it bore.

Were there any soundings made after you came to anchor?

Answer. We sounded after we came to anchor; there was between eight and nine fathoms of water; don't recollect exactly how much; don't know what the bottom was.

Were you inside or outside of Holmes' Hole light?

Answer. The light was inside about one mile and a half; the light would bear about southwest by west from where the brig lay.

How far did you lie from the west buoy on the Hedge Fence?

Answer. I do not know; did not take any notice of any buoy there; I know where the Hedge Fence is; we lay about one mile and one-half from the Hedge Fence.

Did you turn out at half-past nine o'clock; if so, why was not the brig got under way?

Answer. I did turn out, at half past nine o'clock; don't know why the brig was not got under way; the captain turned after half past nine, and did not come on deck again, until the steamer struck; left Francis Ward on deck, when I turned in at half past nine.

GEORGE ANDERSON.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
v.
STEAMER PIEDMONT, her tackle, apparel, and furniture, &c.

City of Bath, county of Sagadahoc, State of Maine.

I, Jacob S. Sewall, of the city of Bath, State of Maine, justice of the peace and notary public, the officer named in the annexed assent, marked exhibit B, hereby certify, that I was notified by Mess. Bronson & Sewall, of this city, attorneys and counsellors at law, were the attorneys at said Bath for the respondents in the above exhibited action; that I duly notified said Bronson & Sewall

that I had appointed the thirtieth day of August, A. D. 1856, at 10 o'clock in the forenoon of said day as the time, and my office in said Bath as the place of taking on behalf of said libellants the depositions of Francis Ward, George Anderson, Francis King, Joseph Jay, and James Auld, to be used in said court on the trial of said cause; that on the thirtieth day of said August, and also, by adjournment, on the first, second and third days of September, A. D. 1856, I was attended by Dexter Hawkins, esq., as attorney for said libellants, and by said Bronson & Sewall, as attorneys for said respondents, and also by said Ward and said King, and said Anderson and said Auld; said Jay, did not appear, and I took down the interrogatories and cross-interrogatories with objections thereto, by the attorneys of the respective parties in said suit, to said witnesses; that said witnesses were first by me respectively, duly, and publicly sworn true answers to make to all interrogatories and cross-interrogatories to each one of them, touching a certain suit or libel now pending in the aforesaid court between the aforesaid parties in said suit, and took the answers of each of said witnesses; that each said deposition was carefully read by me to the witness making the same; the said witness being then again sworn, subscribed his said deposition in my presence.

In testimony to the truth and validity of the foregoing caption, I hereunto have fixed my seal official, and subscribed my name, and also have signed my name at the bottom of each page of the deposition and caption, this third day of September, in the year of our Lord eighteen hundred and fifty-six.

JACOB S. SEWALL,
Justice of the Peace and Notary Public.

Endorsed: deposition of George Anderson.—1.

I, Francis King, of Bath, county of Sagadahoc, State of Maine, of lawful age, on oath, depose and say, and make answer to the following interrogatories?

Questions by Dexter A. Hawkins, atty. for libellants:

1st. What is your name, residence, occupation, and age?

Answer. My name is Francis King; my residence is in Bath; my occupation is a blacksmith; I am twenty-seven years old.

2d. Were you on board the brig Phillip Larrabee, last August and September; if yea, in what capacity, and from what port to what port was said brig bound, and what was her cargo; how many hands did said brig carry?

Answer. I was on board of the brig Philip Larrabee last August and September, A. D. 1855; I was cook and steward on said brig; the brig was bound from Jacksonville, (Florida,) to Boston; her cargo was pitch pine lumber; she carried eight hands all told.

3d interrogatory. Did you come to anchor at *at* any place on said voyage before arriving at Boston; if yea, state the day and cause of coming to anchor, and the place where?

Answer. We anchored off Holmes' Hole from Montauk Point, about a quarter of a mile; it was September 2d, A. D. 1855; we came to anchor in a squall, with the weather looking badly.

4th. What are the points of land called on each side of Holmes' Hole?

Answer. I do not know.

5th Interrogatory. State particularly so far as you know all that took place on or about said brig Philip Larrabee on said Sunday afternoon and night?

Answer. We anchored about three o'clock Sunday morning, September 2d, 1855; set a correct watch on deck by the captain's order; we laid there all day Sunday; the wind blowed fresh until 12 o'clock noon; the weather continued to grow very moderate in the afternoon, and was very moderate that night; very clear; no fog above or below; the moon and stars shone bright; there was a good watch on deck; I saw the second mate put the light in the larboard fore rigging; I gave it to him myself; it was a large globe lantern, well trimmed in good order by myself, for a good light; the light was put up about seven o'clock; I did not turn in at all; was off and on deck all night; was anxious to get home; saw the watch walking the deck at about half past ten; went below in my room; about half an hour afterwards heard the watch on deck call "steamboat ahoy, keep away;" I thought to myself what the damned fool was hallooing for, being such a clear night; before I got on deck the steamboat struck the brig on the starboard quarter, about three feet forward of the flush of the stern; she knocked the stern away clear fore and aft; ripped up the deck flush to the main house, so that we had to put planks across on to stand up and steer; she "racked" the wheel; the captain hailed the steamer; no reply was given; she kept on her course; she was a steamer fore and aft rigged; a propeller painted black: her sails were furled; we tried the pumps; found the brig leaking more than usual; went forward and hove in the slack chain; at four o'clock made sail for Edgartown; arrived there about half past 8 o'clock A. M. and anchored; hauled in to the wharf about 10 o'clock A. M.; a man came on board; and he with the captain had the brig repaired; we laid there two weeks, and was eleven days repairing; then sailed for Boston; was two days and one night on our passage to Boston; arrived there safely; I left the brig the next day after she got in; after the steamer passed I could distinguish her two miles distant; should think there was a three knot breeze at the time of the collision; the sea was pretty rough: I have followed the sea about thirteen years; it was not quite high water slack, but cannot say positively, at the time of the collision; the moon was I think about three hours high; the captain did not turn in after the collision; he was on and off deck all night after the collision, but did not turn in; a part of the time he was looking to see if the brig was

in danger of filling; I saw no one on board of the steamer; she was stern to us when I saw her, having gone by us; on the Holmes' Hole side we laid pretty close in; not much room for vessels to pass; on the Hedge Fence side where vessels get ashore there was a plenty of water, say for two miles distant; I have been there eight or nine times and anchored; the Hedge Fence is a shoal; we anchored where vessels usually anchor, but I think a little outside; there were a number of vessels at anchor inside of us; they would swing about in range of us; I could see a vessel's light about three miles and a half distant distinctly, so as to know it from any other light; heard the watch call "steamboat ahoy" twice before she struck the brig once forward and once aft.

Questions by Bronson & Sewell, attys. for respondents.

1st. How far from the Hedge Fence was the brig anchored at the time of the collision?

Answer. About three miles.

2d. How did Holmes' Hole light bear at the time of the collision from the brig?

Answer. I do not know. The head of the brig was towards the Hedge Fence.

3d. How would Holmes' light bear, the head of the brig lying towards the Hedge Fence?

Answer. I do not know; there is an inside light and an outside light; I do not exactly know where they are situated; I do not know exactly how far we laid from the Holmes' Hole light.

4th. Where is Montauk Point or the point you referred to?

Answer. When I said Montauk Point I meant the "west chop;" I cannot tell the distance between the two lights.

5th. What direction did you lay from the "west chop?"

Answer. We lay inside of the West Chop towards the harbor, about a mile and one-half from the "East Chop," about a quarter of a mile outside of the West Chop. I should judge there was six or seven fathoms of water where we lay; I threw my own fishing line where we lay; we came into the Vinyard, the usual way vessels come in bound to the northward. I cannot describe particularly the way vessels come in; if I was there, I could point it out. The vessel headed towards the harbor the morning after we got under way to go; I mean when we weighed anchor, to Edgartown; I mean at the time we got the anchor; did not notice which way the light bore when we got under weigh; I was about my business; there were three or four vessels laying at anchor, outside of us, about a quarter of a mile distant. Francis Ward was on the first watch that night; the first watch was set at eight o'clock, P. M. The watch continued from that time until the collision; I did not turn in; was anxious to get home; expected the crew would be mustered, to get under way; heard the first cry to the steamboat, about 11 o'clock, from forward; heard

the second cry about five minutes after. The steamer broke two spokes of the wheel and racked it badly; she carried away the things in the run of the vessel, enough to lighten the brig about seven inches astern; all hands rema on deck after the collision; the captain and mates remained on deck all night after the collision; cannot say I saw Francis Ward on deck after we ceased pumping; cannot say I saw George Anderson on deck after we ceased pumping; don't know whether there was a watch set after the collision; the pump was going off and on all night; don't know who pumped; the other able seamen besides Ward and Anderson, was Joe Burgess, and "Antony," whose other name I don't know; after the collision, I do not believe that any one of the whole crew turned in; I was not in the forecastle that night; I have not talked with any one about this matter for a year past; Captain Auld asked me to come and testify in this case; should think thirty vessels laid inside of us and the point; I mean between the vessel and the point; I think from having seen vessels loaded, sailing up and down; the channel was three miles wide; "I cannot say whether it was high water slack, or low water slack."

"The last paragraph was a correction made by the witness."

his
FRANCIS + KING.
mark.

JACOB S. SEWALL,
Justice of the Peace and Notary Public.

United States district southern district of New York.

STEPHEN LARRABEE and others
vs.
STEAMER PIEDMONT, her tackle, apparel, and furniture, &c.

City of Bath, county of Sagadahoc, and State of Maine.

I, Jacob S. Sewell, of the city of Bath, and State of Maine, justice of the peace and notary public, the officer named in the annexed assent, marked exhibit B, hereby certify that I was notified that Messrs. Bronson & Sewell, attorneys and counsellors at law of this city, were the attorneys at said Bath for the respondents in the above exhibited action; that I duly notified said Bronson and Sewell that I have appointed the thirtieth day of August, A. D. 1856, at 10 o'clock in the forenoon of said day, as the time, and my office in said Bath as the place of taking in behalf of said libellants the depositions of Francis Ward, George Anderson, Francis King, Joseph Day and James Auld, to be used in said court on the trial of said cause; that on the thirtieth day of said August, and also by adjournment, on the first, second and third days of September, A. D. 1856, I was attended by Dexter A. Hawkins, esq., at attorney for said libellants, and by said Bronson and Sewell as attorneys

for said respondents, and also by said Ward and said King, and said Anderson, and said Auld; said Jay did not appear; and I took down the interrogatories and cross-interrogatories, with objections thereto by the attorneys of the respective parties in said suit to said witnesses, that said witnesses were first by me respectively, duly and publicly sworn true answers to make to all interrogatories and cross-interrogatories to each one of them, touching a certain suit or libel now pending in the aforesaid court between the aforesaid parties in said suit, and took the answers of each of said witness that each said deposition was carefully read by me to the witness making the same; the said witness being then again sworn, subscribed his said deposition in my presence.

J. S. SEWELL, *Magistrate.*

Fees.

Five days C $10 per day, - - - -	$50 00
Francis Ward, witness 1 day, - - -	1 50
George Anderson, witness, 2 days, - - -	3 00
Francis King, " 2 days, - - -	3 00
James Auld, " 3 days, - - -	4 50
3 subpanaes, C 25 - - - - -	75
Service on Thos. Saunders, who objected to testify -	2 00
Serving citation on libellants to appear - -	54
Service on witnesses - - - - -	29
Certifying depositions and returning captions -	3 00
	68 58

In testimony to the validity of the foregoing caption and the fees of magistrates and witnesses, I hereunto have affixed my seal official, and subscribed my name, and also have signed my name at the bottom of each page of the deposition and caption, this third day of September, in the year of our Lord eighteen hundred and fifty-six.

JACOB S. SEWALL,
Justice of the Peace and Notary Public.

Endorsed: Deposition of Francis King.—2.

I, Hartley Clifford, of Edgecomb, in the district of Maine, aged thirty-nine years, on oath do testify and say, in answer to the following interrogatories on the part of the libellants:

Int. 1. What is your occupation?

Ans. I have followed the sea since I have been fourteen years old.

Int. 2. Please state whether or not you was on board the brig Philip Larrabee, of Bath, James Auld, master, in the year 1855? If yea, state what months of said year you were employed on board said brig, and in what capacity you served.

Answer. I was on board of said brig in the year 1855; I joined her in April, and continued on board till December, except that I was absent from her from some time in June till the middle of July; I served as mate.

Int. 3. State all you know relative to a collision, if any there was, between a steamboat and said brig Philip Larrabee, in the Vinyard sound, off Holmes' Hole, on the night of Sept. 2d and 3d, 1855? Please state fully all the particulars as to where said brig lay; the state of the weather; the time of the collision; whether said brig had a light up, and all you know about it.

Ans. At the time specified said brig lay at anchor in the Vinyard sound, off Holmes' Hole, about half way between "East Chop" and Hedge Fence, (so called.) We came to an anchor there about three o'clock on Sunday morning, Sept. 2d; we lay there till Monday morning, about six or seven o'clock. The weather was clear all Sunday night, and Monday morning there was no fog. About eleven o'clock on Sunday night a steamboat struck the brig on the starboard quarter; the steamboat was a propeller, but I cannot state how she was rigged, or how she was painted, or how many masts she had; after the collision the steamer went on her way without stopping; the brig had a light burning in her larboard fore rigging, about ten feet above the top of the deck load. There was a watch on deck at the time of the collision; there were many other vessels at anchor in the neighborhood, but none within hail. There was ample room for a steamer to pass on either side of the brig; the brig was heading northwesterly; the steamer was going westwardly; the steamer struck the brig nearly at right angles, and cut the stern off—the stern sweeping off, and went adrift. I was not on deck at the moment of the collision, but came up immediately after; the steamer did not stop at all; she cut our stern off, sheared a little, and passed on. The next morning we went into Edgartown, and had a survey of the vessel; had her repaired under the survey, and then proceeded to Boston. At the time of the collision there was a moderate breeze from the north northwest; the light in the rigging of our brig was a glass globe lantern of the usual size, and it was burning brightly when I came on deck; it was starlight at that time; we saw the steamer for some distance after she passed us; the brig was from Jacksonville, bound to Boston, with a cargo of lumber.

Cross-interrogatories by David Bronson, Esq., attorney for claimants.

Int. 1. How long before the collision had you left the deck?

Ans. Between seven and eight o'clock in the evening I left the deck.

Int. 2. Of how many did the watch consist, and what were their names?

Ans. The watch was one man, whose name I do not now recollect.

Int. 3. Were you in your berth at the time of the collision; if so, was you dressed or undressed?

Ans. I was in my berth; had my pantaloons on.

Int. 4. Where was Capt. Auld at the time of the collision, and how long had he been absent from the deck at that time?

Ans. He was in his berth; he had turned in at about eight o'clock, and I don't know that he was on deck after that time.

Int. 5. What was the state of the tide at the time of the collision?

Ans. I am unable to say.

Int. 6. In what direction was West Chop light from the brig?

Ans. I cannot say.

Direct examination resumed.

Int. 4. In answer to the fourth cross-interrogatory, you state that Capt. Auld went below at eight o'clock. State whether or not you know whether he was or was not on deck from that time to the time of the collision?

Ans. I am unable to state whether he was or not.

HARTLEY CLIFFORD.

Fees commissioner - - - - -	$10
Deponent 1 day and 32 ms. trav. - -	3 60
Service on deponent - - - -	3 88
Notice to adverse party - - - -	56
	18 04

UNITED STATES OF AMERICA, } ss.
Southern district of New York, }

I, John Rand, a commissioner duly appointed by the circuit court of the United States under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the foregoing deposition was taken by request of libellants, Stephen Larabee and als.; and the reason for taking the same is, that the testimony of said witness is alleged to be material and necessary in the cause in which the same is taken, to wit: wherein Stephen Larrabee and others are libellants against the steamer

Piedmont, now pending in the district court of the United States for the southern district of New York, and that said witness lives at a greater distance from the place of trial than one hundred miles.

I further certify, that a notification signed by me before whom the said deposition was taken, to the adverse party, to be present at the taking of the same deposition and to put interrogatories, if he thought fit, was first made out and served on David Bronson and Frederick D. Sewall, attorneys for the owners and claimants of said steamer Piedmont, said attorneys being the nearest, and within one hundred miles of the place of caption, allowing time for his attendance after notified not less than at the rate of one day, Sundays exclusive, for every twenty miles travel, and said attorneys attended.

I further certify, that I caused to be and personally appear before me at the office of Jacob S. Sewall, in Bath, the said witness, on the seventh day of November, in the year of our Lord one thousand eight hundred and fifty-six, who was of lawful age, and said witness was by me first carefully examined and cautioned, and sworn to testify the whole truth, and said deposition was by me reduced to writing in the presence of the said witness, and was afterwards by him subscribed in my presence; and said deposition so taken has been retained by me until I now seal the same, and direct it with this certificate of the reason of its being taken, and of the notice given to the adverse party by me as aforesaid.

And I do further certify, that I am not of counsel nor attorney to either of the parties, or interested in the event of the cause.

In testimony whereof, I have hereunto set my hand and seal, this seventh day of November, in the year of our Lord one thousand eight hundred and fifty-six.

JOHN RAND,

Commissioner of the Circuit Court of United States, Maine district.

[SEAL. JOHN RAND, U. S. Commissioner.]

Filed this 15 day of November, 1856.

Deposition of Thomas Saunders.

I, Thomas Saunders, of Wiscasset in the district of Maine, aged fifty-three years, on oath do testify and say in answer to the following interrogatories on the part of the libellants.

Int. 1. What is your business or occupation, and how long have you been engaged in it?

Ans. I have been a ship-master for the last thirty-five years.

Int. 2. Do you know the parties to this suit, or either, and which of them, and how long have you known them respectively?

Ans. I know none of the libellants except Stephen Larrabee, and have known him only a few weeks. I do not know the owners of the steamer Piedmont; she belongs to Cromwell & Co. line; and I was employed by John Riley, agent for that line, as master of this steamer.

Int. 3. Were you on board the steamboat Piedmont in this suit on the first, second, third and fourth days of September, 1855, or either and which of said days; and if yea, in what capacity?

Ans. I was on board of said steamer on all of said days in the capacity of master.

Int. 4. From what port did said steamer sail or proceed on or about the 1st day of September, 1855, and bound to what port?

Ans. From Portland and bound for New York.

Int. 5. Did said steamer Piedmont on her said voyage from Portland to New York pass Holmes' Hole; if yea, at or about what hour of what day did she pass it?

Ans. Said steamer on said voyage did pass Holmes' Hole at about twenty minutes after 12 A. M., on Monday, September the 3d.

Int. 6. In passing Holmes' Hole did said steamer come in collision with any other ship or vessel; if yea, how many masts had said vessel, and whereabouts did said steamer strike said vessel: state if you know the name of said vessel, and have you seen her since said collision; if yea, where and when?

Ans. In passing Holmes' Hole said steamer did come in collision with another vessel; I cannot say how many masts said vessel had; I do not know; said steamer struck said vessel on the starboard quarter about one foot from the stern; I do not know the name of said vessel; I have not seen her since said collision.

Cross interrogatories by David Bronson, Esqr., attorney for claimants.

Int. 1. State all the facts in regard to the collision, particularly describing the situation of the vessel, the weather, whether clear or foggy; where you was at the time; how near was the steamer to the vessel when you first discovered her; what was the speed of the steamer; whether there was a light on the vessel; what orders were given by you; and what was done by the man at the wheel; whether any one hailed you from the vessel; what damage was done to the vessel and what to the steamer?

Ans. At the time of the collision I was on the top gallant forecastle of the steamer; the weather was not clear; it was a thick mist about as high as a brig's top gallant yard, and I could not see through it; the steamer was within three hundred feet or about twice the length of the steamer of the vessel when I first discovered her; the steamer was then going at a speed of five miles per hour; the vessel was then heading about northeast, I should say; I did not see any light on the vessel; the moment I discovered the top gallant yard of the vessel I ordered the helm hard a starboard, but the man at the helm was already heaving to starboard, and at the same moment he sung out "vessel ahead;" no one hailed us from the vessel that I heard; no damage was done to the steamer; and as we passed I saw no damage to the vessel, except her davits or one of them carried away, and her boat hanging one end down;

I stood within four feet of the vessel as we passed her; I ordered the engine stopped, and it was partialy stopped; but it did not check the headway of the steamer, and I immediately ordered to go ahead as *a* another vessel was coming and very near to us.

Int. 2. State for what purpose you was on the forecastle, and also whether as you passed the light-house you could discern the light?

Ans. I was on the forecastle on the look out, and as I passed the light-house I saw the light, being then within a half a mile of it; when I first saw the light it was about three miles distant; and I saw it over the top of the mist.

Int. 3. How long after passing the vessel before the mist or fog disappeared?

Ans. I should think it was half an hour before it so settled down that I could see the land.

Int. 4. For how long a time before the collision had you been unable to see the land?

Ans. For about two hours and a half.

Direct examination resumed.

Int. 7. Did said steamer come in collision with more than one vessel on the night you spoken of?

Ans. She did not.

THOMAS SAUNDERS.

UNITED STATES OF AMERICA, } ss.
Southern district of New York, }

I, John Rand, a commissioner duly appointed by the circuit court of the United States under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, passed February 20, 1812, and the act of Congress entitled "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the foregoing deposition was taken by request of the libellants, Stephen Larrabee and others, and the reason for taking the same is that the testimony of said witness is alleged to be material and necessary in the cause in which the same is taken, to wit: wherein Stephen Larrabee and others are libellants against the steamer Piedmont, now pending in the district court of the United States, southern district of New York, and that said witness lives at a greater distance from the place of trial than one hundred miles.

I further certify, that a notification signed by me, before whom the said deposition was taken, to the adverse party, to be present

at the taking of the same and to put interrogatories, if he thought fit, was first made out and served on David Bronson and Frederick D. Sewall, attorneys for the owners and claimants of said steamer Piedmont, said attorneys being the nearest and within one hundred miles of the place of caption, allowing time for his attendance after notified not less than at the rate of one day, Sundays exclusive, for every twenty miles travel, and said attorneys attended; that I caused to be and personally appear before me at the office of Jacob S. Sewall, in Bath, the said witness.

I further certify, that I caused to be and personally appear before me at the office of Jacob S. Sewall, in Bath, the said witness, on the seventh day of November, in the year of our Lord one thousand eight hundred and fifty-six, who was of lawful age, and said witness was by me first carefully examined and cautioned, and sworn to testify the whole truth, and said deposition was by me reduced to writing in the presence of the said witness, and was afterwards subscribed by him in my presence; and said deposition so taken has been retained by me until I now seal the same, and direct it with this certificate of the reason of its being taken, and of the notice given to the adverse party by me as aforesaid.

And I do further certify, that I am not of counsel nor attorney to either of the parties or interested in the event of the cause.

In testimony whereof, I have hereunto set my hand and seal, this seventh day of November, in the year of our Lord one thousand eight hundred and fifty-six.

JOHN RAND,
Commissioner of the Circuit Court of the United States,
Maine district.

[SEAL. JOHN RAND, U. S. Commissioner.]

I, Francis Ward, of Lynn, Commonwealth of Massachusetts, non commorant at Bath, in the county of Sagadahoc, and State of Maine, of lawful age, on oath depose and say and make answer to the following interrogatories:

Questions by Dexter A. Hawkins, Atty. for libellants.

1st. What is your name, residence and occupation, and age?

Answer. My name is Francis Ward, my age is twenty-five, residence Lynn, Massachusetts, occupation a seaman; have followed the sea for about eleven years.

2d. Were you on board the brig Phillip Larrabee last August and September; if, yea, in what capacity, and from what port to what port was said brig bound, and what was her cargo, and how many hands did said brig carry?

Answer. I was on board said brig during said months of August and September last as a seaman, (an able seaman.) The brig was bound from Jacksonville, Florida, to Boston, Massachusetts; her cargo was southern pine lumber; she carried four able seamen; a steward who acted as cook, two mates, and a captain, eight in all.

3d. Interrogatory. Did you come to anchor at any place on said voyage before arriving at Boston; if yea, state the day and cause of coming to anchor, and the place where?

Answer. We did come to anchor on four of the clock on the morning of the second day of September, A. D. 1855; we anchored in Holmes' Hole; I mean to say off the mouth of the hole, where vessels come to anchor; it was four o'clock on Sunday morning, the second day of September, 1855.

4th Interrogatory. State particularly, so far as you know, all that took place on or about said brig Phillip Larrabee on said Sunday afternoon and night?

Answer. We laid to anchor all day Sunday; a man from the shore came alongside of the brig in a boat; he stopped a few minutes, spoke to some of the crew and went away again; that Sunday night all hands were on deck about ten o'clock; staid on deck about one half hour, and then went below; I took the first watch on deck that night; remained on the watch until after eleven o'clock walking the deck; during my watch a steamship (a screw boat,) came up and struck the brig on the starboard quarter; the steamboat was painted black; she appeared to be fore and aft rigged; her sails were furled; I think she was going seven or eight knots; when I first saw her I calculated she was about two miles distant; she was heading about southwest, directly for the brig; as soon as she came within hailing distance I sung out to her to keep away; I got no answer; I hailed her twice; she was about a quarter of a mile off when I first hailed her; I looked to see if there was any one on the lookout of the steamer; could not see one, except the man at the wheel; the steamer had a light on her foremast head and at her bow; there was a light in the brig's fore rigging; put up about seven o'clock in the evening; it was a large globe lantern with a white light; the light was burning when the steamer struck the brig; just as the steamer struck the brig all hands on board the brig came on deck in a minute; the men in the forecastle and the captain were awake; one of the men hailed the steamer; the weather was clear and fine, with a light breeze from the north; there was a fine moon; almost a full moon; the stars shone brightly; there was no fog; there were vessels at anchor all around us; inside and outside of us; I could see distinctly one mile distant; there was a mile and a half on each side of us for a steamer to pass; I could see the capstan in the forecastle deck of the steamer quite plain as she passed; the steamer struck us about five feet forward of the "davits" on our starboard quarter; the steamer knocked the whole stern of brig away; the decks were started all across the brig; they were broken and ripped up; after the steamer passed we tried the pumps and found the vessel leaking; the steamboat passed along without stopping or hailing us; all hands stopped on deck about an half *an* hour; and then went below, except one man in my place; the

wind continued about north with a light breeze; the weather continued fine all night; the night continued clear all night; at four o'clock all hands were called to weigh anchor and make sail; made sail and went to Edgartown, about five or six miles distant; arrived at Edgartown, and came to anchor about half past eight or nine o'clock, Monday morning, September third, A. D., 1855; hauled to the wharf about 11 o'clock, A. M., same day; we had the vessel repaired at Edgartown; it took about fifteen or sixteen days; after we repaired at Edgartown we sailed for Boston; from where we were run into in Holmes' Hole, we had a light breeze until we arrived at Edgartown; we were two days and two nights on our passage from Edgartown to Boston; at Boston I left the brig and came to Bath.

Questions by Bronson & Sewell, Attys. for respondents.

1st. In whose employment are you now?

Answer. I am now in no one's employ; I sailed last in the bark Rhodes, belonging to New Orleans.

2d. How many days passage did you have from Jacksonville to Holmes' Hole?

Answer. I think, as near as I can guess, about eleven days.

3d. At what other place did you anchor on the passage?

Answer. At no other place.

4th. Were you ever in a vessel at anchor in Holmes' Hole before?

Answer. I have been at anchor in vessels at Holmes' Hole four or five times before.

5th. What was the depth of water where you lay at anchor at Holmes' Hole?

Answer. About seven or eight fathoms.

6th. In what part of the bay did the brig lay? (question objected to.)

Answer. The vessel lay between the two head-lands, where all the other vessels were lying, about a mile and one half from the Holmes' Hole side.

7th. How many vessels could you see from the deck of the brig while you were on watch?

Answer. I remember of seeing five, with more further up without lights; saw more small vessels (with lights) close into the land where large vessels could not go.

8th. How near did other vessels lay?

Answer. About a quarter of a mile distant; the most of the five lay within a quarter of a mile.

9th. What time did the moon rise on the night of the 2d of September, A. D., 1855?

Answer. I think about half past eight or nine o'clock.

10th. Did or not the small vessels you saw close into land have their lights set?

Answer. Some had and some had not.

11th. Were there any vessels between the brig and the land on either side?

Answer. Yes, on both sides.

12th. How far was the steamer from you when you first hailed her?

Answer. About one quarter of a mile.

13th. Are you positive there was a light set on board the brig when the collision occurred?

Answer. I am positive there was a large globe light in the fore rigging.

14th. Did you anchor in the same place that you did when there before?

Answer. About the same place; perhaps a little closer into the land.

15th. What did you come to anchor at that place for?

Answer. It was squally weather and thick weather.

16th. *Where* you nearer the East or West Chop where you lay at Holmes' Hole?

Answer. We were close up to the West Chop; about a mile distant; I cannot tell how far from the East Chop.

17th. In what direction did the brig head at the time of the collision?

Answer. She headed about east northeast.

18th. How many persons did you see on the deck of the steamer at the time of the collision?

Answer. I saw only one.

19th. How much water was there in the brig when you sounded the pumps?

Answer. I cannot tell; the pumps were not sounded; all that was done was to heave in some water, and we commenced pumping; we continued pumping about one half an hour, and then went below; the watch continued pumping all night; I was awake and heard him; I did not go to sleep until four o'clock in the morning; then I was called; was not on deck from the time I went down until I was called. The vessel leaked a good deal; the man on deck pumped every fifteen minutes; he pumped about fifteen minutes each time.

20th. Did the captain turn in after the collision?

Answer. Yes, about an half hour afterwards.

21st. What was the usual number on the watch?

Answer. Only one when at anchor.

22d. Was or not the brig anchored further in the channel than vessels usually anchor?

Answer. No, she was not.

23d. In the position of the brig, could her light be seen by the steamer?

Answer. It could be seen quite plainly.

24th. Was the light on board the brig burning after the collision?

Answer. It was kept burning until about half past four o'clock in the morning; the light was there when I came up in the morning at four o'clock.

25th. At what time did you first discover the steamer?

Answer. At about one-half an hour before she struck us.

26th. Did the captain and crew get on deck before the collision?

Answer. No, they did not.

27th. Were there any vessels between the brig and the steamer when you first discovered her?

Answer. No, there was not.

28th. Was it ebb or flood tide?

Answer. It was flood tide at the time of the collision.

Questions (direct resumed) by D. A. Hawkins.

1st. In answer to the fourth interrogatory, you say the steamer was heading southwest; did you mean she was heading southwest; if not, *how* did you mean?

(Question objected to as leading.)

Answer. I meant to say she was going west northwest.

Questions by Bronson and Sewall.

Who have you conversed with about this matter since the adjournment at noon?

(Question objected to by counsel for libellants.)

Answer. I have conversed with no one.

Have you told any one that you made a mistake in the direction the steamer was going?

(Question objected to as not admissable in this stage of the examination.)

Answer. No, I have not; no one suggested to me; I made a mistake.

FRANCIS WARD.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
vs.
STEAMER PIEDMONT, her tackle, apparel, and furniture, &c.

City of Bath, county of Sagadahoc, State of Maine.

I, Jacob S. Sewall, of the city of Bath, State of Maine, justice of the peace and notary public, the officer named in the annexed assent, marked exhibit B, hereby certify, that I was notified that Mess. Bronson & Sewell, attorneys and counsellers at law of this city, were the attorneys at said Bath for the respondents in the above exhibited action; that I duly notified said Bronson & Sewell that I had appointed the thirtieth day of August, A. D., 1856, at

10 o'clock in the forenoon of said day as the time, and my office in said Bath, as the place of taking on behalf of said libellants the depositions of Francis Ward, George Anderson, Francis King, Joseph Jay, and James Auld, to be used in said court, on the trial of said cause; that on the thirtieth day of said August, and also by adjournment on the first, second and third days of September, A. D. 1856, I was attended by Dexter Hawkins, Esqr., as attorney for said libellants, and by said Bronson & Sewall as attorneys for said respondents, and also by said Ward and said King, and said Anderson and said Auld; said Jay did not appear, and I took down the interrogatories and cross-interrogatories, with objections thereto, by the attorneys of the respective parties in said suit, to said witnesses; that said witnesses were first by me respectively, duly, and publicly sworn true answers to make to all interrogatories and cross-interrogatories to each one of them touching a certain suit or libel now pending in the aforesaid court, between the aforesaid parties in said suit, and took the answers of each of said witnesses; that each said deposition was carefully read by me to the witness making the same. The said witness being then again sworn, subscribed his said deposition in my presence.

In testimony to the truth and validity of the foregoing caption, I hereunto have affixed my seal official and subscribed my name at the bottom of each page of the deposition and of this caption, this third day of September, in the year of our Lord eighteen hundred and fifty-six.

JACOB S. SEWALL,
Justice of the Peace and Notary Public.

(Endorsed) deposition of
FRANCIS WARD.—5.
United States district court, southern district of New York.

Decree for libellants, order for reference to def., amt. damages.

STEPHEN LARRABEE and others
agt.
THE STEAMBOAT PIEDMONT, her tackle, &c.

It is hereby stipulated by the proctors of the respective parties to this suit, that the libellants be permitted to take such testimony as they may be advised at Boston, before Oliver Stevens, Esq., of No. 16 Court street, and at Edgartown, before Joseph Y. Pease, notary public, and at Bath, Maine, before Smith, judge of the municipal court; that the same be taken upon oral interrogatories to be propounded to the witnesses at the time of their examination, the same or any part of them to be written down if any party then require it. The attorney or agent of respondents at each said place to have one day's previous notice of the time and place of taking the depositions, provided the address of said attorney or

agent is within ten days from this date given to the proctor for libellants; said deposition to be used before the commission with the same force and effect as tho' taken regularly under commission issued out of this court.

BEBEE, DEAN & DONOHUE,
Proctors for Respdts.
DEXTER A. HAWKINS,
Proctor for libellts.

Feb. 9th, 1858.

Endorsed 13,337, U. S. dist. court, southern district of N. Y.

STEPHEN LARRABEE and al.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c. } 7.

Stipulations to take depositions at Boston, Bath and Edgartown.
DEXTER A. HAWKINS,
Proctor for libellts.

Filed June 22d, 1858.

U. S. district court, S. district of New York.

STEPHEN LARRABEE and al.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c. } Endorsed 13,337.

We hereby stipulate that the depositions taken on behalf of libellants in the above entitled cause before Oliver Stevens, of Boston, Joseph T. Pease, of Edgartown, and Jacob Smith, of Bath, Me., be admitted in evidence without objection except as to materiality and relevancy, and that the original stipulation on file in the court under which they were taken, be considered as annexed to each one of them; that respondents have permission to cross-examine before the same commissioners any of said witnesses; they may be advised to cross-examine upon two days' notice to libellant's agent at each place, provided said cross-examination is returned to the clerk of this court on or before the sixth day of December next, and for that purpose only a stay of proceedings is granted till December 6th next; libellants to have permission to appear and further examine said witnesses. Libellants' agent at Boston is A. O. Allen, Esq., Court street, at Bath, Stephen Larabee, at Edgartown. His address will be given to Pease, the commissioner.

DEXTER A. HAWKINS,
Proctor for Libellants.

BEEBEE, DEAN & DONOHUE.

New York, Nov. 6, 1858.
Filed Decr. 8, 1858.

United States district court, southern district of New York.

Decree for libellants order of reference to def. amt. damages.

STEPHEN LARRABEE and others
against
THE STEAMBOAT PIEDMONT, her tackle, &c.

It is hereby stipulated by the proctors of the respective parties to this suit, that the libellants be permitted to take such testimony as they may be advised at Boston, before Oliver Stevens, Esq., of No. 16 Court street, and at Edgartown, before Joseph S. Pease, notary public, and at Bath, Maine, before Sn ith, judge of the municipal court; that the same be taken upon oral interrogatories to be propounded to the witnesses at the time of their examination, the same or any part of them to be written down, if any party then require it; the attorney or agent of respondents at each said place to have one day's previous notice of the time and place of taking the depositions, provided the address of said attorney or agent is within ten days from this date given to the proctor for libellants; said deposition to be used before the commissioner with the same force and effect as tho' taken regularly under commission issued out of this court.

BEEBEE, DEAN, & DONOHUE,
Proctors for Respond'ts.
DEXTER A. HAWKINS,
Proctor for Libell'ts.

Feb. 9, 1858.

Commonwealth of Massachusetts, Dukes county, ss.

July 28, 1858.

In accordance with this stipulation, I hereto append the deposition of Abraham Osborn, taken before me at Edgartown, in the county and State aforesaid, this day, by adjournment from July 1, 1858, the respondents not appearing.

Given under my hand this day and year above written.

JOSEPH T. PEASE,
Notary Public.

Endorsed:

U. S. district court, southern dist., N. Y.

STEPHEN LARRABEE and al.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.

Copy stipulation filed with clerk of the court to take depositions at Edgartown, Mass.

I, Abraham Osborn, of Edgartown, in the county of Duke's county, and State of Massachusetts, of the age of fifty-eight years

or thereabouts, on oath do testify, depose, and say: that I have been a shipmaster, and that I am now part owner and agent of several ships at this place, and am an agent for underwriters of New York and Boston. My business is now and has been for about twenty years to superintend the building, repairing, and fitting of ships and vessels. On the third day of September, in the year eighteen hundred and fifty-five, the brig Philip Larabee, of Bath, Capt. Auld, arrived here, at the request of the master of that vessel; I went on board, and found her condition to be as follows: Her stern and stern frame was gone down to the main transom, the taffrail rail, portions of the main rail, the ends of the out-board quarter planks, part of main transom, boat davits, and boat and main sheet blocks, were gone, the mainsail and main-boom were damaged, and the steering-wheel was broken. The vessel had a poop deck, with a cock-pit abaft that; the cock-pit and frame was entirely broken up and carried away; the poop and quarter decks were broken up, and started from where the cock-pit was, about fifteen feet forward; the vessel's stern was open nearly to the water's edge, the planking being entirely off; she was wholly unseaworthy, and unfit to proceed on her voyage, as the sea swell would have rolled in at the stern without any interruption, and filled the vessel with water. At the request of Capt. Auld, as well as at the request of the owners, I superintended the repairs which were made upon the vessel, in person, and I paid the bills therefor myself; a list of these bills is as follows:

Charles R. Tucker	$111 61	J. W. Coffin	$5 00
Stephen Almira	17 00	Watson Clark	29 38
Nicholas Norton	2 00	Peter Pease	80 66
Thomas Milton	6 50	A. Godfrey	3 06
Grafton Norton	5 00	Theodore Norton	2 25
C. B. Marchant	84 16	Samuel S. Daggett	39 98
C F. Dunhan	100 00	Steamer Metacomet	11 17
Geo. Lewis	229 69	John Mayhew	3 99
Sch. L Snow, jr.	20 25	W. J. Parrington	22 00
Bart. Norton	1 37	Fish & Smith	11 25
Osborn's wharf	30 00	Jno. A. Bayliss	1 00
A. P. Weeks	5 00	C. F. Dunham	5 00
Capt. Auld	40 00	My commissions amounted to	60 86
Marchant & Mayhew	23 71	For my services I charged and was paid	50 00
Jas. Durfee	48 18	For interest on draft I charged	12 79
Jos. F. Pease	24 00	For expense of collecting draft	6 69
C. Thatcher and others	199 09	Thos. M. Coffin's bill	4 38
Geo. Lewis	5 00		
Veranus Eldridge	30 00		
John T. Pease	1 00		
T. E. Butler	9 20		
Isaac Powers	9 75		

Capt. Auld's bill for services of himself and crew was $221 25; with this last bill I pursued the same course which I always follow in regard to bills of all masters for the services of themselves and crews; I always decline paying them, preferring that the owners or underwriters or both should adjust charges of that class and description themselves. Capt. Auld's bill, therefore, was noted in my accounts and forwarded therewith, but I did not pay the amount thereof. All the repairs which were made on the Philip Larrabee here, and all the bills which I paid were necessary, and were for expenses, material, labor, &c., required in repairing the injuries hereinbefore described, and which the vessel had sustained.

The bills, a list of which I have herein given, I deemed reasonable and absolutely necessary to be incurred in making the requisite repairs, and no unnecessary outlay or expenditure of any kind, or for any purpose, was incurred while the vessel was in this port. The brig was necessarily detained here, and the time spent in repairing here was fifteen days. I am acquainted with the value of vessels and the cost of sailing them, and in my judgment the detention of a vessel of the class, size, and with the number of men attached and required by the Philip Larrabee, was worth thirty dollars per day at the time she was detained here for repairs in the year 1855, or in other words thirty ($30) dollars is a fair charge for demurrage of such a vessel and crew at that time.

ABRAHAM OSBORN.

Jos. T. Pease, Not'y Public.

State of Massachusetts, Dukes county, ss.

July 28, 1858.

On this day, by adjournment from July 1, 1858, the respondents not appearing, Abraham Osborn, the within and aforenamed deponent, personally appeared before me, the subscriber, at Edgartown, in the State and county aforesaid, and he being first cautioned and sworn to speak the truth, the whole truth, and nothing but the truth, gave the foregoing deposition by him subscribed in my presence, and the same was by me reduced to writing in his presence, agreeably to a stipulation between the counsel in the case, Stephen Larrabee and others vs. Steamer Piedmont, in U. S. district court, New York.

JOSEPH T. PEASE,
Notary Public.

Fees.

Deponent's travel and attendance - -	$3 38
Notary for services - - - - - -	20 00
	$23 38

JOS. T. PEASE, *Not. Public.*

1195

Endorsed 13,337.

U. S. district court.

STEPHEN LARRABEE and others
vs.
The STEAMER PIEDMONT.

D. A. HAWKINS, *Pr. Liblts.*

9. Deposition of Abraham Osborn, opened and filed Sep. 1, 1858.

Deposition of Samuel Pearce.

And the above named deponent being first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause now in hearing, testified as follows, in answer to the several interrogatories propounded to him by A. O. Allen, esquire, for libellants:

1. Where did you reside in the autumn of 1855, and what was your business; and how long had you then been in said business?

Ans. I resided in Boston; my business was that of a marine surveyor and inspector for the port of Boston; I commenced that business January, 1839, and have been engaged in it ever since.

2. Did you know the brig Philip Larrabee, and who were the owners; and where did she belong at that time?

Ans. I know the brig Philip Larrabee; she was owned by Stephen Larrabee and others of Bath, Maine.

3. State whether or not you ever made a survey of said brig; if yea, state the circumstances relating to said survey?

Ans. There are two kinds of survey; I survey all vessels that come into this port, for the benefit of the insurance offices; this is called a general survey; I also, when called upon by masters or owners of vessels, make a survey; this is called a special survey; I made in September, 1855, a special survey of said brig; the brig had evidently been damaged by collision; the master of the brig, James Auld, called upon me, and requested me to make a survey of the brig, which I did, assisted by Samuel D. Curtis, a shipwright of Boston; the brig was then lying at East Boston; I proceeded to make the survey and reduce the result to writing, which I produce, and it is the paper marked I, and hereto annexed; we found the stern post started, the wood ends very open, and the oakum very loose and slack; near the keel it leaked badly; the after butts were very open, and the oakum slack; along amidships her bends or wales and deck were very open; the oakum was mostly gone from the quarter deck, and very open in the main deck; the brig required recaulking throughout; the stern posts rebolting; a new stopwater at the foot of the stern post; and the hull required scraping and painting; in all cases where it becomes necessary to recaulk, scraping and painting follow as a matter of course; the trunk of the cabin was also considerably started and required repairs; also the pipes leading to the water

closet; the cabin deck needed recaulking, the seams being strained and very open; in the run of the vessel a knee and some of the ceiling and the two after beams were started, but these injuries could not be repaired as the decks came so near together that a workman could not get in to repair; they needed rebolting, but could not be got at either to drive a bolt or make a hole; there were many other indications that the vessel had been very severely strained; she had evidently been struck so suddenly and so severely as to be bent so as not to be able to return to her former shape.

4th. Who paid your bill for surveying?

Ans. I was paid, and I think by the master of the brig, Capt. Auld, ten dollars for my own services and the services of Mr. Curtis, who assisted me.

5th. Is the paper marked J your receipt and Mr. Curtis for the survey, and in whose handwriting is it?

Ans. It is, and is in my handwriting.

6th. Could or not said brig be so repaired as to be of as much value as before the collision?

Ans. Not without going to much greater expense than is ordinarily done in cases of repairs of damage; in order to make the vessel as good as before the collision it would have been necessary either to remove the planking or ceiling, and repair all timbers split or broken.

SAMUEL PEARCE.

STEPHEN LARRABEE and others
against
THE STEAMBOAT PIEDMONT, her tackle, &c.

District of Massachusetts.

I, Oliver Stevens, hereby certify, that by virtue of a stipulation between the above entitled parties, a copy whereof is hereto annexed, and marked O. I, on the seventh day of July, A. D., 1858, on the first day of July last, caused the above named deponent, Samuel Pearce, a witness of sound mind and lawful age, and a witness for the libellant in a certain civil action depending in the district court of the United States in and for the southern district of New York, wherein Stephen Larrabee and others are libellants, and Steamer Piedmont, her tackle, &c., are respondents, to come before me at Boston, in said district of Massachusetts, and the said Pearce, being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, relative to the issue, did depose and say, in answer to the several interrogatories proposed to him by A. O. Allen, esquire, proctor for the libellants, as is hereinbefore set forth; and I further certify, that the said deposition was by me reduced to

writing in the presence of the witness, that he subscribed the same in my presence, and that I have retained this deposition for the purpose of forwarding it under my own hand to the court for which it was taken, with this certificate of the reason for its being taken. I further certify, that I am not of counsel nor attorney to either of the parties in the cause in and for which the said deposition was taken, or interested in the event of said cause in and for which said deposition was taken.

In testimony whereof, I have hereunto set my hand, this first day of July, in the year eighteen hundred and fifty-eight.

OLIVER STEVENS.

Witness - - - - - - -	$1 54
Summoning witness - - - - - -	34
Magistrate - - - - - - -	6 00
	$7 88

Taxed by Oliver Stevens.

Paper referred to in deposition of Samuel Pearce.

OLIVER STEVENS.

"I."

BOSTON, September 28th, 1855.

The undersigned having been requested by Captain James Auld, master of the brig Philip Larrabee, of Bath, Me., to make a survey on said brig in consequence of her having been run into by a steamer about the 3d instant, while at anchor in the Vineyard sound, and doing the said brig great damage, (partially repaired at the Vineyard,) and causing her to make much water, her cargo now being discharged, and lying on Curtis' blocks at East Boston, after a careful examination, submit the following report, viz: Found the stern post started; wood ends very open; oakum very slack, with a leak at the bottom; oakum very slack, and after butts very open; also along midships; bends and deck all very open; and oakum mostly gone from the break of the quarter deck, and very open on the main deck; we therefore recommend the vessel to be entirely recaulked; stern post rebolted; a new stopwater at the foot; and hull scraped and painted; trunk of the cabin house has been considerably started and wants repairs; pipe to the water closet started, and wants repairs; cabin deck wants recaulking, the butts being entirely open; in the hold the two after beams and deck knees started, to which, from their confined situation, we can recommend no remedy.

SAMUEL PEARCE,
SAMUEL D. CURTIS,
Surveyors.

Endorsed, I. Brig Philip Larrabee. Surveyors' rep't.

Paper referred to in the deposition of Samuel Pearce.

OLIVER STEVENS.

"I."

BOSTON, Sept. 28, 1855.

Dr. Brig Philip Larrabee of Bath, and owners,
To Saml. Pearce and S. D. Curtis,
For a survey on said brig while on blocks at East Boston, $10 00
Received payment,
SAMUEL PEARCE.

Deposition of Frederick Curtis.

And the above named deponent being first duly sworn to testify the truth, the whole truth and nothing but the truth, relative to the cause in hearing, testified as follows, in answer to the several interrogatories propounded to him by A. O. Allen, esquire, for libellants.

First interrogatory. What was your business, and where did you reside in the autumn of 1855; how long have you followed your present business?

Ans. I was a shipwright and caulker; I resided in Medford, and have been a shipbuilder thirty years, or in the business of a shipwright.

Second interrogatory. Did you have a partner in the year 1855; if yea, whom and where is he now?

Ans. I had—Samuel D. Curtis, residing then in East Boston, was my partner; I think he is in Buffalo, New York; he does not now reside in this Commonwealth.

Third interrogatory. Did you know the brig Philip Larrabee, and who was her master, in the autumn of 1855?

Ans. I knew the brig; her master was Capt. James Auld.

Fourth interrogatory. State whether or not your firm ever made any repairs on said brig; if yea, when and where?

Answer. We did, at East Boston, in September and October, 1855.

Fifth interrogatory. Who employed you to make said repairs?

Ans. Capt. Auld, and the surveyor, Samuel Pearce.

Sixth interrogatory. Have you ever seen the paper now shown you and marked "A" before, and what do you know about it?

Ans. I have; it is in my handwriting, and it is the bill of our firm for repairs, and the signature at the foot of the bill is our signature. We were paid the bill by Mr. Larrabee, the owner or one of the owners of the brig. Our firm made the repairs, and did the work mentioned in the bill.

Seventh interrogatory. Do you know of your own knowledge that the repairs and work charged were done and materials provided, as specified in said bill?

Ans. I do; all the work specified in the bill was performed by us, and all the materials specified in the bill were furnished by us.

Eighth interrogatory. State whether or not said repairs done by you were necessary to be done on said vessel?

Ans. They were all necessary.

Ninth interrogatory. State whether or not the prices carried out against the several items in said bill were the fair market value and price for same work and materials at that time?

Ans. They are.

Tenth interrogatory. What was the going price for shipwrights and carpenters' labor per day in October, 1855?

Ans. Three dollars per day.

Eleventh interrogatory. How long was said brig repairing under your directions?

Ans. I should think about three weeks.

Twelfth interrogatory. State whether or not your firm caused other work not specified in said bill "A" to be done during same time in repairing said brig; and if yea, whom did you employ; give the names of the men?

Ans. We employed other men, and had other work done upon the brig besides that specified in bill "A." We employed Charles Simmons, Joseph Herald, who is now dead, Amasa Nickerson, who is now in the State of Maine, to do the painting; William Waters, James Martin, to haul the brig into the dock; Charles Smith to tow the vessel from Charleston to East Boston; Joseph Herald did the blacksmith work.

Thirteenth interrogatory. Have you ever seen papers now shown you and marked B, C, D, E, G, and H; and if yea, state what you know concerning them?

Ans. I have seen them before; they are the bills of the different parties mentioned in my twelfth answer, and I paid the bills; they are all on account of repairs to the brig Philip Larrabee; none of these bills are included in the bill marked A. Mr. Larrabee, the owner of the brig, furnished me with the money to pay these bills.

Fourteenth interrogatory. Did your firm employ the parties named in said bills to do the repairs and furnish the materials specified in said bills?

Ans. It did.

Fifteenth interrogatory. Was the work and repairing specified in said bill necessary to repair the brig?

Ans. They were.

Sixteenth interrogatory. How was the work and repairing done; state whether or not you personally superintended said work and repairs?

Ans. The work was done thoroughly; I personally superintended it.

Seventeenth interrogatory. Did you examine the materials put into said brig for said repairs; and if so, of what quality were they?

Ans. I did, and they were of the best quality.

Eighteenth interrogatory. State whether or not the brig was an old vessel?

Ans. She was not—not over two or three years old.

Nineteenth interrogatory. Was it necessary to have the vessel moved from one dock to another in order to make the repairs, and where was she moved?

Ans. It was necessary to move her, and she was moved from Charles river to East Boston; she was above the bridges in Charles river before being moved.

Twentieth interrogatory. Were the prices paid by you for the work and materials in the bills marked B, C, D, E, G, and H, fair and reasonable according to the rates of labor and materials at that time?

Answer. They were.

Twenty-first interrogatory. Specify the work you did upon the brig?

Ans. We caulked her throughout, rebolted her sternposts, put knees in her quarter, finished the repairs upon her stern, put on a new stop-water, refastened the brig in various places, and scraped and painted the vessel. All the work specified in the bills was done, and was all necessary to repair the damage caused by the collision.

FREDERICK CURTIS.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
against
THE STEAMER PIEDMONT, her tackle, &c.

District of Massachusetts.

I, Oliver Stevens, hereby certify, that by virtue of a stipulation between the above entitled parties, a copy whereof is hereunto annexed, and marked O, I, on this 7th day of July, A. D. 1858, by adjournment from the first day of July last past, caused the above named deponent, Frederick Curtis, a witness of sound mind and lawful age, and a witness for the libellant in a certain civil suit depending in the district court of the United States in and for the southern district of New York, wherein Stephen Larrabee and others are libellants and the steamer Piedmont, her tackle, &c., are respondents, to come before me at Boston, in said district of Massachusetts; and the said Curtis being by me first carefully examined, and cautioned, and sworn to testify the whole truth relative to the issue, did depose and say, in answer to the several interrogatories proposed to him by A. O. Allen, esquire, proctor for the libellants, as is hereinbefore set forth; and I further certify that the said deposition was by me reduced to writing in the presence of the witness, that he subscribed the same in my presence, and that I have retained this deposition for the purpose of forwarding it under my own hand to the court for which it was taken, with this certificate of the reason of its being taken.

I further certify, that I am not of counsel nor attorney to either of the parties in the cause in and for which the said deposition taken, or interested in the event of said cause in and for which said deposition was taken.

In testimony whereof, I have hereunto set my hand this seventh day of July, in the year of our Lord eighteen hundred and fifty-eight.

OLIVER STEVENS.

Witness' travel and attendance - - -	$2 10
Summoning witness - - - - - -	84
Magistrate - - - - - - - -	8 00
	$10 94

Taxed by OLIVER STEVENS.

Paper referred to in the deposition of Frederick Curtis.

OLIVER STEVENS.

EAST BOSTON, October the 8, 1855.

Brig Philip Larrabee and owners
To F. & S. D. Curtis, shipwrights and caulkers:

To 53 feet of oak timber, a 75 cts. - - - -	$39 75
" 2 knees, c $6 50 per piece - - - - -	13 00
" 200 feet of boards, c 5 c. - - - - -	10 00
" 236 " deck plank, c 5 cts. - - - -	11 80
" lead and nails for rudder post - - - - -	9 50
" unshipping and shipping rubber - - - -	25 00
" 884 lbs. oakum, at 14 cts. - - - - -	123 76
" pitch for seams - - - - - - -	26 25
" putting on stem moulding - - - - -	14 50
" 127½ days' labor, c $3 00 - - - - -	382 50
" dockage and blocks - - - - - -	65 50
" scraping - - - - - - - - -	35 00
" 79 days' labor of carpenters, c $3 00 - - -	237 00
" cleaning and drying bottom - - - - -	15 00
" bolting stern post - - - - - - -	12 50
	$1,021 06

Received payment,

F. & S. D. CURTIS.

Paper referred to in depositions of Frederick Curtis and Charles Simmons.

OLIVER STEVENS.

EAST BOSTON, Oct. 9th, 1855.

Brig Philip Larrabee and owners

To Charles Summons, Dr.

House and ship joiner, Week's wharf, at the foot of Summer st.

To 14½ days' labor, c. $2 50	$36 25
20 lbs. nails, c. 6	1 20
225 feet pine, c. 5	11 25
21 dozen bungs, c. 5	1 05
65 brass screws, c. 2	1 30
6 dozen iron screws, c. 5	30
copper nails	75
3 lbs. composition nails	96
7 hooks and staples	84
5 pr. composition hinges	2 25
	$56 15

Received payment,

CHARLES SUMMONS,
By F. & S. D. CURTIS.

Paper referred to in deposition of Frederick Curtis.

OLIVER STEVENS.

EAST BOSTON, Oct. 8, 1855.

Brig Philip Larrabee and owners

To J. Herald, Dr.

244 B. butts, 8 c.	$19 52
62 lbs. spikes	4 96
Rep. screw bolts	50
25 lbs. iron bolts and plates, c. 13	3 25
42 lbs. plates, c. 12 cts.	5 04
3 keys, 18 c., 2 knees, 50 c.	68
71 dog nails, $1 42	1 42
20 lbs. fender irons, 10	2 00
28 lbs. keel dogs, 13	3 64
	$41 01

Rec'd pay't,

J. HERALD.

BOSTON, Oct. 9th, 1855.

Dr. Philip Larrabee and owners

To W. Watters.

To repairs on water tank $9 50

Received pay't,

W. WATTERS.

1853

Paper referred to in deposition of Frederick Curtis.
OLIVER STEVENS.

E. Boston, Oct. 4, 1855.

Brig Philip Larrabee and owners Dr.
To Amasa Nickerson, jr.

To 9 men in dock tide, each $1 25 - - - -	$11 25
" 27 lbs. mixed white paint, 14 c. - - - -	3 78
" 120 lbs. mixed lead color, 13 c. - - - -	15 60
" 14 lbs. " " 14 c. - - - -	1 96
" 85 lbs. green in ballusters and bet., 22 c. - - -	18 70
" 15 lbs. putty, 8 - - - - - - - -	1 20
" 2¾ galls. Japan, 8 f. - - - - - - - -	3 65
" 17 " b'd oil, $1 10 - - - - - - -	18 70
" 60 lbs. verdigris, 35 - - - - - - - -	21 00
" 8 " Chinese green, 25 - - - - - - -	2 00
" 31 " white lead, 10 - - - - - - -	3 10
" 77 " black paint mix, 14 - - - - -	10 18
" 15 and 2-10 days' painting, labor, 15 f. - - -	38 00
	$148 72

Rec'd paym't,
AMASA NICKERSON,
By F. & S. D. CURTIS.

Paper referred to in deposition Frederick Curtis.
OLIVER STEVENS.

Boston, Oct. 6, 1855.

Brig Philip Larrabee and owners
To Charles Smith, Dr.

For towing and hauling from Charleston to East Boston, $18 50
Received payment,
CHARLES SMITH.

Paper referred to in deposition of Frederick Curtis.
OLIVER STEVENS.

East Boston, Oct. 9, 1855.

Brig Philip Larrabee and owners Dr.
To hauling in and out of dock at East Boston - - $6 50
Rec'd paym't,
JAMES MARTIN.

Deposition of Jonathan M. Tucker.

And the above named Jonathan M. Tucker being first duly sworn to testify the truth, the whole truth, and nothing but the

truth, testified as follows in answer to the several interrogatories propounded to him by A. O. Allen, esquire, for libellants:

First interrogatory. Where did you reside and what was your business in 1855?

Ans. I resided in East Boston, and was a ship carpenter.

Second interrogatory. Did you know the brig Larrabee, and did you ever make any repairs upon her; if yea, please state time and other circumstances?

Answer. I knew her, and in the latter part of September or early in October, 1855, I was employed by F. & S. D. Curtis to make repairs upon her.

Third interrogatory. What was ship carpenter's work worth per day, in September and October of 1855, and who paid you, and how many days did you work on said vessel?

Ans. Wages were three dollars per day; I was employed by F. & S. D. Curtis, and worked about ten days upon her, and was paid by F. & S. D. Curtis.

Fourth interrogatory. About how many tons was the vessel?

Ans. About two hundred and twenty-five tons, I should think.

Fifth interrogatory. In what conditon was the brig after the repairs were done?

Ans. She was put in as good repair as she possibly could be; but was not so good as before she was run into; a vessel struck as she was, could not be made as good as before.

Sixth interrogatory. What was the condition of her stern post, and knees, and beams about her quarter deck, after repairing?

Ans. They were started, and were bolted as well as they could be, to keep them where they were, but could not be got back in their places; it could have been done by taking the stern and quarter deck, and part of the main deck off, and the stern post out; but this would have been a great job, and altogether too expensive.

JONATHAN M. TUCKER.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
against
THE STEAMBOAT PIEDMONT, her tackle, &c.

District of Massachusetts.

I, Oliver Stevens, hereby certify, that by virtue of a stipulation between the above entitled parties, a copy whereof is hereto annexed, and marked O, I, on this seventh day of July, A. D. 1858, by adjournment from the first day of July last past, caused the above named deponent, Jonathan M. Tucker, a witness of sound mind and lawful age, and a witness for the libellants in a certain civil suit depending in the district court of the United States in and for the southern district of New York, wherein Stephen Larrabee and others are libellants, and the steamer Piedmont, her

tackle, &c., are respondents, to come before me in Boston, in said district of Massachusetts; and the said Tucker being by me first carefully examined, and cautioned, and sworn to testify the whole truth relative to the issue, did depose and say, in answer to the several interrogatories proposed to him by A. O. Allen, esquire, proctor for the libellants, as is herein before set forth; and I further certify that the said deposition was by me reduced to writing in the presence of the witness, that he subscribed the same in my presence, and that I have retained this deposition for the purpose of forwarding it under my own hand to the court for which it was taken, with this certificate of the reason for its being taken. I further certify that I am not of counsel nor attorney to either of the parties in the cause in and for which the said deposition was taken, or interested in the event of said cause in and for which said deposition was taken.

In testimony whereof, I have hereto set my hand, this seventh day of July, in the year eighteen hundred and fifty-eight.

OLIVER STEVENS.

Witness' attendance, - - - - -	$1 54
Summoning witness, - - - - -	34
Magistrate's fees, - - - - - -	5 00
	6 88

Taxed by OLIVER STEVENS.

Deposition of Charles Simmons.

And the above named Charles Simmons being first duly sworn to testify the truth, the whole truth, and nothing but the truth relative to the cause now in hearing, testified as follows, in answer to the several interrogatories propounded to him by A. O. Allen, esquire, for libellants:

First interrogatory. Where did you live, and what was your business in 1855?

Ans. I resided in East Boston, and was a house and ship joiner.

Second interrogatory. Did you know the brig Philip Larrabee; if yea, did you ever do any work upon her; if so, state when, and the circumstances of performing said work?

Ans. I knew said brig, and did work upon her, in October, 1855; Frederick Curtis employed me, and with my men I did the joiners' work upon the vessel, and furnished the stock.

Third interrogatory. Is the bill now shown you and marked B, your bill for said work, and is it correct in all respects?

Ans. It is my bill, and is in all respects correct.

Fourth interrogatory. Who paid you for said work, and where was the brig when you did the work upon her?

Ans. Frederick Curtis paid the bill; she was in his dock.

Fifth interrogatory. Were the repairs done on said brig necessary?

Ans. They were.

Sixth interrogatory. State if or not the prices mentioned in your bill, marked B, were reasonable, and according to the market rates for such kind of work and materials in Boston at that time?

Ans. They were.

Seventh interrogatory. Did you know Joseph Herald, of East Boston, and what has become of him?

Ans. I did; he was a blacksmith in East Boston, and is now dead.

Eighth interrogatory. Did he do any work on said brig, and if yea, what kind of work?

Ans. He did the blacksmiths' work.

CHARLES SIMMONS.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
against
THE STEAMER PIEDMONT, her tackle, &c.

District of Massachusetts.

I, Oliver Stevens, hereby certify, that by virtue of a stipulation between the above entitled parties, a copy whereof is hereto annexed, marked O, I, on this 7th day of July, 1858, by adjournment from the first day of July last past, caused the above named deponent, Charles Simmons, a witness of sound mind and lawful age, and a witness for the libellants in a certain civil suit depending in the district court of the United States in and for the southern district of New York, wherein Stephen Larrabee and others are libellants, and the steamer Piedmont, her tackle, &c., are respondents, to come before me at Boston, in said district of Massachusetts; and the said Simmons being by me first carefully examined and cautioned, and sworn to testify the whole truth relative to the issue, did depose and say, in answer to the several interrogatories proposed to him by A. O. Allen, esquire, proctor for the libellants, as is herein before set forth; and I further certify, that the said deposition was by me reduced to writing in the presence of the witness, that he subscribed the same in my presence, and that I have retained this deposition for the purpose of forwarding it under my own hand to the court for which it was taken, with this certificate for the reason of its being taken. I further certify, that I am not of counsel nor attorney to either of the parties in the cause in and for which the said deposition was taken, or interested in the event of said cause in and for which said deposition was taken.

In testimony whereof, I have hereunto set my hand this seventh

day of July, in the year of our Lord eighteen hundred and fifty-eight.

OLIVER STEVENS.

Witness' attendance - - - - -	$1 54
Summoning witness - - - - -	34
Magistrate's fees - - - - - -	5 00
	6 88

Taxed by OLIVER STEVENS.

Deposition of James Martin.

And the above named deponent being first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause now in hearing, testified as follows, in answer to the several interrogatories propounded to him by A. O. Allen, esquire, for libellants:

First interrogatory. Where did you live, and what was your business in the autumn of 1855?

Ans. My business in 1855 was hauling and scraping vessels, and I lived in East Boston.

Second interrogatory. Did you know the brig Philip Larrabee, and did you ever do any work on or about her; if yea, state what, and all the circumstances?

Ans. I know the brig, and hauled her on and off the blocks in the dock in the autumn of 1855.

Third interrogatory. Who employed and who paid you, and how much were you paid?

Ans. Mr. Samuel D. Curtis, of the firm of F. & S. D. Curtis, employed and paid me; he paid me six dollars and thirty-two cents.

Fourth interrogatory. Did you go by any other name than Henry Martin in the year 1855?

Ans. I was known by the name of James Martin; I was generally called James.

JAMES $\overset{\text{my}}{+}$ MARTIN.
mark.

Witness: OLIVER STEVENS.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
against
THE STEAMBOAT PIEDMONT, her tackle, &c.

District of Massachusetts.

I, Oliver Stevens, hereby certify, that by virtue of a stipulation

between the above entitled parties, a copy whereof is hereto annexed, and marked O, I, on the seventh day of July, A. D. 1858, by adjournment from the first day of July last past, caused the above named deponent, James Martin, a witness of sound mind and lawful age, and a witness for the libellants in a certain civil suit depending in the district court of the United States in and for the southern district of New York, wherein Stephen Larrabee and others are libellants, and the steamer Piedmont, her tackle, &c., are respondents, to come before me at Boston, in said district of Massachusetts; and the said Martin being by me first carefully examined and cautioned, and sworn to testify the whole truth relative to the issue, did depose and say, in answer to the several interrogations proposed to him by A. O. Allen, esquire, proctor for the libellants, as is hereinbefore set forth; and I further certify, that the said deposition was by me reduced to writing in the presence of the witness, that he subscribed the same in my presence, and that I have retained this deposition for the purpose of forwarding it under my own hand to the court for which it was taken, with this certificate of the reason for its being taken. I further certify, that I am not of counsel nor attorney to either of the parties in the cause in and for which the said deposition was taken, or interested in the event of said cause in and for which said deposition was taken.

In testimony whereof, I have hereunto set my hand this seventh day of July, in the year eighteen hundred and fifty-eight.

OLIVER STEVENS.

Witness' attendance - - -	$1 54
Summoning witness - - -	34
Magistrate's fees - - - -	5 00
	$6 88

Taxed by OLIVER STEVENS.

Deposition of Jonathan H. Cheney.

And the above named Jonathan H. Cheney being first duly sworn to testify the truth, the whole truth, and nothing but the truth in the matter now in hearing, testified as follows, in answer to the several interrogations propounded to him by A. O. Allen, esquire, for libellants:

First interrogatory. Where did you reside in 1855, and what was your business in 1855, and how long have you been so engaged?

Ans. I resided in Boston, and was then and am now a ship broker, and have been in that business fourteen years.

Second interrogatory. What was the rate of demurrage for a brig of two hundred twenty-five or two hundred and fifty tons in October 1855 at this port?

Ans. This depends upon the situation of the vessel; if there is

no crew on board while repairs are going on the demurrage is less than if there is a crew on board; if the vessel is bound to another port, and puts in here for repairs with a crew on board, the demurrage will be as much as if at sea; for brig of two hundred and twenty-five, or two hundred and fifty tons, with a full crew on board, the fair rate of demurrage was twenty-six dollars; with no crew on board, I should say the fair rate of demurrage was eighteen dollars a day; on this last estimate, I suppose there are on board the usual persons, say a mate and cook. J. H. CHENEY.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
against
THE STEAMER PIEDMONT, her tackle, &c.

District of Massachusetts.

I, Oliver Stevens, hereby certify, that by virtue of a stipulation between the above entitled parties, a copy whereof is hereto annexed, and marked O, I, on this seventh day of July, A. D. 1858, by adjournment from the first day of July last past, caused the above named deponent, J. H. Cheney, a witness of sound mind and lawful age, and a witness for the libellants in a certain civil suit depending in the district court of the United States in and for the southern district of New York, wherein Stephen Larrabee and others are libellants, and the steamer Piedmont, her tackle, &c., are respondents, to come before me at Boston, in said district of Massachusetts; and the said Cheney being by me first carefully examined and cautioned, and sworn to testify to the whole truth relative to the issue, did depose and say, in answer to the several interrogatories proposed to him by A. O. Allen, esquire, proctor for the libellants, as herein before set forth; and I further certify, that the said deposition was by me reduced to writing in the presence of the witness, that he subscribed the same in my presence, and that I have retained this deposition for the purpose of forwarding it under my own hand to the court, for which it was taken, with this certificate of the reason of its being taken. I further certify that I am not of counsel nor attorney to either of the parties in the cause in and for which the said deposition was taken, or interested in the event of said cause for which said deposition was taken.

In testimony whereof, I have hereunto set my hand this seventh day of July, in the year eighteen hundred and fifty-eight.

OLIVER STEVENS.

Witness' attendance - - - -	$1 54
Summoning witness - - - -	34
Magistrate's fees - - - - -	5 00
	6 88

Taxed by OLIVER STEVENS.

Deposition of Nathan W. Bridge.

And the above named deponent, being first duly sworn to testify the truth, the whole truth, and nothing but the truth, relative to the matter now in hearing, testified as follows, in answer to the several interrogatories propounded to him by A. O. Allen, esquire, for libellants:

First interrogatory. Where did you live, and what was your business in the year 1855, and how long have you been so engaged?

Ans. Ship broker in 1855, and been in that business twenty years; my business has been in Boston.

Second interrogatory. What was the rate of demurrage for a brig of two hundred twenty-five, or two hundred and fifty tons, in October, 1855, in Boston?

Ans. The demurrage of such a vessel, with her crew on board, would have been from twenty-five to twenty-seven dollars per day; if there was no crew on board except the master and mate, that are generally necessary, the fair rate would be from seventeen to twenty dollars.

NATHAN W. BRIDGE.

United States district court, southern district of New York.

STEPHEN LARRABEE and others
against
THE STEAMER PIEDMONT, her tackle, &c.

District of Massachusetts.

I, Oliver Stevens, hereby certify, that by virtue of a stipulation between the above entitled parties, a copy whereof is hereto annexed, and marked O, I, on this seventh day of July, A. D. 1858, by adjournment from the first day of July last past, caused the above named deponent, Nathan W. Bridge, a witness of sound mind and lawful age, and a witness for the libellants in a certain civil suit depending in the district court of the United States in and for the southern district of New York, wherein Stephen Larrabee and others are libellants, and the steamer Piedmont, her tackle, &c., are respondents, to come before me at Boston, in said district of Massachusetts; and the said Bridge being by me carefully examined, and cautioned, and sworn to testify the whole truth relative to the issue, did depose and say, in answer to the several interrogatories proposed to him A. O. Allen, esquire, proctor for libellants, as is herein before set forth; and I further certify, that the said deposition was by me reduced to writing in the presence of the witness, that he subscribed the same in my presence, and that I have retained this deposition for the purpose of forwarding it under my own hand to the court for which it was taken. I further certify that I am not of counsel nor attorney to either of the parties in the cause in and for which the said deposition was taken,

or interested in the event of said cause in and for which said deposition was taken.

In testimony whereof, I have hereunto set my hand, this seventh day of July, in the year eighteen hundred and fifty-eight.

OLIVER STEVENS.

Witness' attendance - - -	$1 54
Summoning witness - - -	34
Magistrate's fees - - - -	5 00
	$6 88

Taxed by OLIVER STEVENS.

Endorsed 13,337. U. S. district court.

STEPHEN LARRABEE and others
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.

Dep'ns 10.

Endorsed—*Deposition of Auld.*

I, James Auld, of Bath, in the county of Sagadahoc, State of Maine, of lawful age, do depose and say, on oath:

That I was master of the brig Philip Larrabee, of Bath, and that I was on board of said brig at the time she was run into in the Vineyard sound by the steamer Piedmont in September, 1855; the steamer struck the brig on the stern, and carried the stern away, and every thing that was in the store-rooms in the stern and run of the brig were carried away and lost. The articles in the store-rooms which were lost and the value of them were as follows, viz:

	$ cts.
429 lbs. of rigging - - - - -	65 00
1 hemp span - - - - - -	11 00
Sett of purchase blocks - - - - -	58 00
2 crowbars - - - - - - -	3 00
2 cross-cut saws - - - - - -	5 00
Studden sail gear, 1½ year old - - - -	19 00
2 pair case hooks - - - - - -	3 00
35 fathom ½ inch chain - - - - -	6 00
2 pair timber dogs - - - - -	5 00
1 barrel of flour - - - - - -	6 00
1 barrel of beef - - - - - -	16 00
1 barrel of pork - - - - - -	24 00
½ do. molasses - - - - - -	7 00
Paint, oil, white lead and paint brushes - - -	15 00
Iron spikes - - - - - -	4 00
One water cask - - - - - -	8 00

JAMES AULD.

Filed July 12, 1858.

STATE OF MAINE.

Sagadahoc, ss.

On the thirty-first day of July, in the year of our Lord one thousand eight hundred and fifty-eight, James Auld, the aforesaid deponent, personally appeared before me, the subscriber, at Bath, in said county of Sagadahoc, and he being first cautioned and sworn to speak the truth, the whole truth, and nothing but the truth relating to the cause for which the deposition is to be taken, gave the foregoing deposition by him subscribed in my presence, and the same was by me reduced to writing in his presence. Said deposition is taken at the request of Stephen Larrabee and als., and to be used in a libel now pending between Stephen Larrabee and als. and steamboat Piedmont, to be heard and tried before the United States district court for the southern district of New York.

The adverse party was not present.

The cause of taking this deposition is according to the stipulation annexed to former depositions taken by me.

JACOB SMITH,
Judge of the Municipal Court of the city of Bath.

Fees.

Deponent's attendance - - -	50
Travel - - - - -	8
Magistrate - - - - -	2 00
	$2 58

Filed August 3, 1858.

I, Francis King, jr., of Bath, in the county of Sagadahoc, State of Maine, of lawful age, do on oath depose and say:

I was cook on board of the brig Philip Larrabee, of Bath, Maine, in 1855, on a voyage from Jacksonville, Florida, to Boston, Mass.; during that voyage she was run into by a steamer in the Vineyard sound.

Question by H. Tallman, Esqr., libellants' att'y. Do you remember whether there were any articles stowed away in the run of said brig at the time of the collision above referred to; if so, what were they?

Answer. There were articles stowed away in the run, namely: "coils of rigging, also, small rigging and *seizing* stuff, purchase blocks, chains and slings used in taking timber on board, dogs, crowbars, and other articles used in loading and discharging timber, a lot of studdersail gear, spare canvass, case hooks for barrels and hogsheads, two cross-cut saws, ships' tools, small blocks, one bbl. beef, 1 do. pork, 1 do. flour, ½ do. molasses, 1 keg of white lead, 1 do. black lead, 1 can containing paint oil, a spare can, a water-cock, and a lot of paint brushes. All of the spare rigging

not in use was stowed away in the run; I helped stow away some of the articles in the run, and saw the others stowed away.

Question by same. What became of the above named articles at the time of the collision?

Answer. The steamer carried every thing as she went, the stern and all, and they were lost.

his
FRANCIS ⋈ KING, jr.
mark.

STATE OF MAINE.

Sagadahoc, ss.

On the twenty-first day of July, in the year of our Lord one thousand eight hundred and fifty-eight, Francis King, jr., the aforesaid deponent, personally appeared before me, the subscriber, at Bath, in said county of Sagadahoc; and he being first cautioned and sworn to speak the truth, the whole truth, and nothing but the truth relating to the cause for which this deposition is to be taken, gave the foregoing deposition by him subscribed in my presence, and the same was by me reduced to writing in his presence. Said deposition is taken at the request of Stephen Larrabee and others, and to be used in a libel now pending between Stephen Larrabee and als. and steamboat Piedmont, &c., to be heard and tried before the U. S. district court, southern district of New York.

The adverse party was not present.

The cause of taking this deposition is according to the stipulation annexed.

JACOB SMITH,
Judge of the Municipal Court for the city of Bath.

Fees.

Deponent's attendance - - -	50
Travel - - - - -	8
Magistrate - - - - -	2 00
	$2 58

I, Benjamin Small, of Bath, in the county of Sagadahoc, State of Maine, of lawful age, on oath depose and say:

Question by H. Tallman, Esq., atty. for libellants. What is your business or occupation, and how long have you been engaged in such business?

Answer. I am a master ship-builder, and have been for about eighteen years.

Question by same. Do you know the brig Philip Larrabee, of Bath, and how long have you known her?

Answer. I knew her while she was building, and have known her ever since.

Question by same. Did you know the state and condition of the brig immediately before her collision with the steamer in 1855,

and also her state and condition as she was repaired after the said collision; if so, was she of more or less value when so repaired than before the collision?

Answer. I was acquainted with her condition just before she sailed for Jacksonville; after her return here after the collision and repairs I examined her, and should be of the opinion that her value was reduced three hundred dollars or more. She was only one year or thereabouts. The damage as to value would be more on her than on an old vessel.

BENJAMIN SMALL.

STATE OF MAINE.

Sagadahoc, ss.

On the twenty-first day of July, in the year of our Lord one thousand eight hundred and fifty-eight, Benj. Small, the aforesaid deponent, personally appeared before me, the subscriber, at Bath, in said county of Sagadahoc; and he being first cautioned and sworn to speak the truth, the whole truth, and nothing but the truth relating to the cause for which the deposition is to be taken, gave the following deposition by him subscribed in my presence, and the same was by me reduced to writing in his presence. Said deposition is taken at the request of Stephen Larrabee and als., and to be used in a libel now pending between Stephen Larrabee and als. and steamboat Piedmont, &c., to be heard and tried before the U. S. district court, southern district of New York.

The adverse party was not present.

The cause of taking this deposition is that according to the stipulation annexed

JACOB SMITH,
Judge of the Municipal Court for the city of Bath.

Fees.

Deponent's attendance - - - - -	50
" travel - - - - - -	8
Magistrate - - - - - - - -	2 00
	$2 58

I, Lincoln Webb, of Woolwich, in the county of Sagadahoc, State of Maine, of lawful age, on oath depose and say:

Question by H. Tallman, atty. for libellants.

What is your occupation, and how long have you been engaged in such business?

Answer. I am a master mariner, and have been for thirty years.

Question by same. Do you know the brig Phillip Larrabee, and how long have you known her?

Answer. I have known her ever since she was built.

Question by same. What would have been a fair market price per day for demurrage of a vessel of the class and size of the Phillip Larrabee, in Sept. and Oct., 1855?

Answer. Thirty-five dollars per day, vessel victualled and manned.

Question by same. From your knowledge of the brig before the collision, and after being repaired, can you form an opinion of the difference in her value, and what, and how much?

Answer. I should think she was worth less; say about three hundred and fifty dollars; I own three vessels of the same class of the Philip Larrabee.

LINCOLN WEBB.

STATE OF MAINE.

Sagadahoc, ss:

On the twenty-first day July, in the year of our Lord one thousand eight hundred and fifty-eight, Lincoln Webb, the aforesaid deponent, personally appeared before me, the subscriber, at Bath, in said county of Sagadahoc; and he being first cautioned and sworn to speak the truth, the whole truth, and nothing but the truth, relating to the cause for which the deposition is to be taken, gave the foregoing deposition by him subscribed in my presence, and the same was by me reduced to writing in his presence. Said deposition is taken at the request of Stephen Larrabee, and to be used in a libel now pending between Stephen Larrabee and al. and steamboat Piedmont, &c., to be heard and tried before the United States district court, southern district of New York, N. Y.

The adverse party was not present.

The cause of taking this deposition is according to the stipulation annexed.

JACOB SMITH,
Judge of the Municipal Court for the city of Bath.

Fees.

Deponent's attendance, - - - - -	50
" travel - - - - - -	36
Magistrate, - - - - - - -	2 00
	$2 86

I, John Woolston, of Bath, in the county of Sagadahoc, State of Maine, on oath do depose and say:

Question by H. Tallman, Esq., atty. for libellants.

Are you an owner of vessels?

Answer. I am.

Question by same. What would be a fair market price per day

for a demurrage of a vessel of the size and class of the Phillip Larrabee in Sept. and Oct., 1855?

Answer. For that class of vessels I should say forty dollars per day; vessels victualled and manned; vessels of that class were in good demand in 1855.

JOHN WOOLSTON.

STATE OF MAINE.

Sagadahoc, ss.

On the twenty-first day of July, in the year of our Lord one thousand eight hundred and fifty-eight, Jno. Woolston, the aforesaid deponent, personally appeared before me, the subscriber, at Bath, in said county of Sagadahoc; and he being first cautioned and sworn to speak the truth, the whole truth, and nothing but the truth relating to the cause for which the deposition is to be taken, gave the foregoing deposition by him subscribed in my presence, and the same was by me reduced to writing in his presence. Said deposition is taken at the request of Stephen Larrabee and als., and to be used in a libel now pending between Stephen Larrabee and als. and steamboat Piedmont, &c., to be heard and tried before the U. S. district court, southern district of New York.

The adverse party was not present.

The cause of taking this deposition is according to the stipulation annexed.

JACOB SMITH,
Judge of the Municipal Court for the city of Bath.

	Fees.
Deponent's attendance - - -	50
" travel - - - -	36
Magistrate - - - - -	2 00
	$2 86

Endorsed: 13,337.

U. S. district court, southern district of New York.

Decree for libellants' order of reference to def. amt. damages.

STEPHEN LARRABEE and others
against
STEAMBOAT PIEDMONT, her tackle, &c.

It is hereby stipulated by the proctors of the respective parties to this suit, that the libellants be permitted to take such testimony as they may be advised at Boston before Oliver Stephens, Esq., of No. 16 Court street, and at Edgartown before Joseph S. Pease, notary public, and at Bath, Maine, before Smith, judge of the municipal court; that the same be taken upon oral interrogatories to be propounded to the witnesses at the time of their examination, the same or any part of them to be written down, if

any party there require it. The attorney or agent of the respondents at each said place to have one day's previous notice of the time and place of taking the depositions, provided the address of said attorney or agent is within ten days from this date given to the proctor for libellants, said deposition to be used before the commission with the same force and effect as tho' taken regularly under commission issued out of this court.

BEEBE, DEAN, & DONOHUE,
Proctors for respts.

Feb. 9, 1858. DEXTER A. HAWKINS,
Proctor for libel'ts.

Opened and filed July 30, 1858.

United States district court for the southern district of New York.

STEPHEN LARRABEE et als.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c. } *Commissioner's report.*

In pursuance of a decretal order made in the above entitled cause, on the fifth day of October, in the year of our Lord one thousand eight hundred and fifty-seven, by which, among other things, it was referred to the undersigned, one of the commissioners of this court, to ascertain and compute the amount due the libellant for damages by the collision in the pleadings mentioned, and to report thereon to this court with all convenient speed, I, Joseph Bridgham, the commissioner to whom the matter was referred, do report that I have been attended by the proctor for the libellants and claimants, and have taken and examined the testimony offered in support of the libellants' claim for damages, and do find that there is due to the libellants—

For cash paid repairs at Edgartown, Oct. 1, 1855 -	$1,351 97
Interest on same to Dec. 15, 1858 - - -	303 60
Demurrage at Edgartown 15 days, at $30 per day -	450 00
Cash paid repairs at Boston, October 9, 1855 - -	1,304 94
Interest on 1,304 94 to Dec. 15, 1858 - - -	288 78
Demurrage at Boston 11 days, at $18 per day -	198 00
Value of merchandise lost overboard by collision -	255 00
Denomination of value of vessel by reason of collision	300 00
	$4,452 29

amounting, in all, to the sum of four thousand four hundred and fifty-two 29-100 dollars.

All which is respectfully submitted.

JOSEPH BRIDGHAM,
U. S. Commissioner.

Dated the 27 day of December, A. D. 1858.

D. A. HAWKINS,
Proctor for libellants.

Filed the 28 day of Decr., 1858.

Order Conf. Com. Report, nisi.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Tuesday, the 28th day of December, in the year of our Lord one thousand hundred and fifty-eight.

Present: The honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and als.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.
} Vol. 13, page 337.

Joseph Bridgham, U. S. commissioner, brings into court the report made by him in the above entitled cause. On motion of Dexter A. Hawkins, proctor for the libellants, ordered that same be confirmed unless exceptions are filed thereto within two days from this date.

Filed the 28th day of Dec., 1858.

Endorsed: 13,337.

U. S. district court.

STEPHEN LARRABEE and others
agt.
STEAMBOAT PIEDMONT, &c.

Exceptions to commissioner's report.

First. The commissioner admitted improper evidence.

Second. The allowance of the commissioner is excessive, and not warranted by the evidence.

Third. The commissioner should have disallowed all the repairs at Boston; he should have disallowed the claim for deterioration; he should have disallowed interest; he should also have disallowed demurrage and goods lost.

Fourth. That the proof does not make out the payments for the claim charged.

Fifth. That the proof does not sustain either of the claims for demurrage.

BEEBE, DEAN & DONOHUE,
For clmt.

Filed Dec. 30, 1858.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Thursday, the 27th day of January, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: The honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and ors.
vs.
THE STEAMBOAT PIEDMONT, &c. } Vol. 13, page 337.

This cause being called in its order on the calender on exceptions to commissioner's report:

Mr. Donohue for clmts. argues in support of the exceptions.

Mr. Hawkins argues in opposition to the exceptions.

C. A. V.

United States district court, for the southern district of New York.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the city hall, in the city of New York, on Saturday, the nineteenth day of March, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: the honorable Samuel R. Betts, district judge.

STEPHEN LARRABEE and als.
vs.
THE STEAMBOAT PIEDMONT. } 13,337.

This case having been heard on exceptions to the commissioner's report, and argued by the advocates for the respective parties, and due deliberation being had in the premises, it is now ordered, adjudged and decreed by the court, that the exceptions be overruled and the commissioner's report confirmed; and it is further ordered that the libellants recover in this action against the steamboat Piedmont the sum of four thousand four hundred and fifty-two 20-100 dollars, the amount reported due, together with eighty dollars interest and with costs to be taxed, and that the said steamboat, her tackle, &c., be condemned therefor.

And on like motion, it is further ordered that in pursuance of the act of Congress passed March 3d, 1847, a summary judgment be and the same is hereby entered against Henry B. Cromwell, the principal, and William D. Cromwell, the surety, on their bond given on the discharge of the property arrested for the sum of eight thousand dollars, the amount of their said bond executed on discharging the said steamboat from custody.

And on like motion, it is further ordered, that unless an appeal be taken to this decree within the time limited and prescribed by the rules of this court, that the libellants have execution to enforce satisfaction of this decree.

Signed SAMUEL R. BETTS.

D. A. HAWKINS,
Proctor for libellants.

Filed the nineteenth day of March, 1859.

U. S. district court.

THE STEAMER PIEDMONT
ads.
STEPHEN LARRABEE, &c.

Sir: Please to take notice that the claimants' appeal from the decree rendered herein and every part thereof, dated March 21, 1859.

Yours, &c.
BEEBE, DEAN & DONOHUE,
For applt.

To
GEO. F. BETTS, *Clerk.*
D. A. HAWKINS, Esq., *for libellt's.*

Endorsed: 13,337.

U. S. district court.

THE STEAMER PIEDMONT
ads.
STEPHEN LARRABEE, &c.

Notice of appeal filed March 28, 1859.

Bond for costs on appeal.

of the United States of America for the southern district of New York, in the second circuit.

STEPHEN LARRABEE and others, libellants and appellees,
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.
} Vol. 13, page 337.

HENRY B. CROMWELL,
Claimants and appellants.

Know all men by these presents, that we, Henry B. Cromwell, George Bell, and John Baird, are held and firmly bound unto the above named libellants and appellees in the sum of nine thousand five hundred dollars, to be paid to the said libellants, for the payment of which well and truly to be made we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the eleventh day of April, in the year of our Lord one thousand eight hundred and fifty-nine.

Whereas the above named claimant hath prosecuted an appeal to the circuit court of the United States for the southern district of New York, in the second circuit, to reverse the decree rendered in the above entitled suit by the judge of the district court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if

the above named appellant shall prosecute his appeal to effect and answer all damages and costs, if he fail to make his appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

H. B. CROMWELL, [L. S.]
GEO. BELL, [L. S.]
JOHN BAIRD. [L. S.]

Sealed and delivered, and taken and acknowledged this 11 day of April, 1859, before me.

JOSEPH BRIDGHAM,
U. S. Com'r.

UNITED STATES OF AMERICA, } ss.
Southern district of New York, }

George Bell and John Baird, being duly sworn, each depose and say, that he resides in the city of New York, and that he is worth the sum of nine thousand five hundred dollars over and above all his just debts and liabilities.

GEO. BELL,
JOHN BAIRD.

Sworn to this eleventh day of April, A. D. 1859, before me.

JOSEPH BRIDGHAM,
U. S. Com'r.

The sufficiency of the sureties to the within bond approved.

Signed SAML. R. BETTS,
District judge.

N. Y., April 15, 1859.

Filed this 11 day of April, 1859.

To the honorable the circuit court of the United States for the southern district of New York, in the second circuit.

The petition of appeal of Henry B. Cromwell, owner of the steamer Piedmont, respectfully shows:

That Stephen Larrabee and others did, on or about the 6th day of May, 1856, file their libel in the district court of the United States for the southern district of New York, in the second circuit, against the steamer Piedmont, and the said steamer was duly arrested on said suit; that the claimant and appellant duly appeared and claimed said vessel, and put in his answer to the libel; that such proceedings were thereupon had in the said district court of the United States for the southern district of New York, that by the order and decree of the said court, entered on the 19th day of March, 1859, it was ordered, adjudged, and decreed that the libellants recover against the said steam propeller Piedmont the sum of four thousand four hundred and fifty-two 29-100 dollars; which decree and every part thereof the claimant alleges is erroneous. Wherefore, the appellant prays that the said circuit court of the United States for the southern district of New York, in the second

circuit, may proceed to hear the said cause anew on new pleadings and proofs, and that the decree aforesaid may be reversed, annulled, and altogether held for nothing, and that the respondent and appellant may be restored to all things he has lost in the premises.

BEEBE, DEAN & DONOHUE,
For appellants.

Endorsed 13,337.

U. S. circuit court. The steam propeller Piedmont, &c., ads. Larrabee and als. Petition of appeal.

B. D. & D., *for appell't.*

Filed 12th April, 1859.

At a special term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the city hall, in the city of New York, on Friday the twenty-eighth day of September, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: The honorable Samuel Nelson, an associate justice of the Supreme Court of the United States.

STEPHEN LARRABEE, libellant and appellant,
vs.
THE STEAMBOAT PIEDMONT, claimant and appellant.

The appeal in the case from the district court coming on to be heard, Mr. Hawkins reads from the apostles evidence on the part of libellant and appellee; Mr. Donohue reads from the apostles evidence on the part of clt. and applt.

Mr. Hawkins argues on the part of the libellant and appellee; Mr. Donohue is heard on the part of the claimant and appellant.

Cur. adv. vult.

At a special term of the circuit court of the United States, for the southern district of New York, in the second circuit, held at the circuit court rooms, in the city of New York, on Tuesday, the fourth day of October, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: The honorable Samuel Nelson, justice.

STEPHEN LARRABEE et al.
vs.
THE STEAMBOAT PIEDMONT, her tackle, &c.

This case having been heard on the appeal herein taken on behalf of respondents, from the decree herein of the district court for said district, on hearing, Dexter A. Hawkins, esq., for libellant's respondents, and Charles Donohue, Esq., for claimant, appellants, and due deliberation having been heard in the premises:

It is now ordered, adjudged, and decreed by this court, that said decree of said district court be and the same hereby is affirmed in all respects; and it is further ordered, adjudged, and decreed that

the libellants herein recover in this action against the steamboat Piedmont the sum of four thousand eight hundred and seventy-nine dollars and eight cents, ($4,879 08,) the amount of said decree appealed from, together with interest on the same to date, viz., one hundred and seventy-nine dollars and sixty-four cents, ($179 64,) and eighty-two dollars and twenty cents costs of this appeal; total, five thousand and one hundred and thirty dollars and ninety-two cents, ($5,130 92,) and that said steamboat, her tackle, &c., be condemned therefor.

And it is further ordered, adjudged, and decreed, that unless an appeal be taken within the time prescribed by law, a summary judgment be and the same is hereby entered against Henry B. Cromwell, the principal, and George Bell and John Baird, the sureties on their bond given on the appeal of this case from the said district court to this above named circuit court, for the sum of nine thousand five hundred dollars, ($9,500,) the amount of their said bond executed on appealing to this court.

It is further ordered, that unless an appeal be taken to this decree within the time limited and prescribed by the rules of this court, that the libellants have execution to enforce satisfaction of this decree.

S. NELSON.

Filed Oct. 4, 1859.

To the honorable the Supreme Court of the United States of America.

The petition of appeal of Henry B. Cromwell, claimant of the steamship Piedmont, respectfully showeth:

That heretofore, and on or about the sixth day of May, 1859, Stephen Larrabee and others filed their libel in the district court of the United States for the southern district of New York, claiming that the steamer Piedmont had heretofore ran into and damaged the brig Phillip Larrabee, owned by them, and that said steamer should be condemned therefor; that thereafter an answer was duly filed, taking issue on such libel, and the cause was duly heard in said district court by a decree thereof on the nineteenth day of March, 1857; that said court adjudged that the libellants recover against the claimant and appellant the sum of $4,252 92-100; that the petitioner prosecuted his appeal from said decree to the circuit court of the United States for the southern district of New York in the second circuit, and the same was duly heard in said court, and that thereafter, the said circuit court did order, adjudge, and decree that said decree of the district should be affirmed with costs.

That your petitioner respectfully insists that the said decree is erroneous, and he appeals from the said decree and each and every part thereof, and prays that the Supreme Court of the United States may proceed to hear the said cause anew on new allegations

and proofs, and to reverse and annul said decree of the said circuit court, and to restore to the appellant all rights which he has lost by reason of said decree.

BEEBE, DEAN, & DONOHUE,
For appellant.

H. B. CROMWELL, *Appellant.*

Endorsed:

I admitt due service of a copy of the within appeal.
Dated Oct. 11, '59.

D. A. HAWKINS,
For R. C. H.

Filed Oct. 11, 1859.

Bond for costs, and amount.

Circuit court of the United States of America for the southern district of New York, in the second circuit.

HENRY B. CROMWELL, claimant of the propeller PIEDMONT, appellant,
vs.
STEPHEN LARRABEE and others, libellants' respondents.

Know all men by these presents, that we, Henry B. Cromwell, George Bell, and Beard, of the city of New York, are held and firmly bound unto the above named Larrabee and others in the sum of ten thousand dollars, to be paid to the said Larrabee and oths., for the payment of which well and truly to be made we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the first day of October, in the year of our Lord one thousand eight hundred and fifty-nine.

Whereas the above named Henry B. Cromwell has prosecuted his appeal to the Supreme Court of the United States to reverse the decree rendered in the above entitled suit, by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above named Henry B. Cromwell shall prosecute his appeal to effect and answer all damages and costs, if he fail to make his appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

H. B. CROMWELL, [SEAL.]
GEORGE BELL, [SEAL.]
JOHN BAIRD. [SEAL.]

Sealed and delivered, and taken and acknowledged this 1st day of Oct., 1859, before me.

[SEAL.] O. R. STEELE,
Notary Public.

UNITED STATES OF AMERICA, *Southern district of New York*, } ss.

Henry B. Cromwell, George Bell, and John Beard, being duly sworn, depose and say, each for himself, that he is a resident of the State of New York, that he is worth the sum of ten thousand dollars over and above all his just debts and liabilities.

H. B. CROMWELL,
GEO. BELL,
JOHN BAIRD.

Sworn to this seventh day of Oct., A. D. 1859, before me.
[SEAL.] O. R. STEELE,
Notary Public.

Filed this 11th day of Oct., 1859.

Citation.

By the honorable Samuel Nelson, one of the judges of the circuit court of the United States for the southern district of New York, in the second circuit, to Stephen Larrabee and others:

Whereas Henry B. Cromwell, claimant of steamer Piedmont, has lately appealed to the Supreme Court of the United States from a decree lately rendered in the circuit court of the United States for the southern district of New York, in the second circuit, made in favor of you, the said Stephen Larrabee and others, against the said Henry B. Cromwell and said propeller, and has filed the security required by law, you are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, on the day of December, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, in the second circuit, the third day of October, in the year of our Lord 1859, and of the independence of the United States the eighty-fourth.

S. NELSON.

Endorsed:

I admit due service of a citation, of which the within is a copy. Dated Oct. 11, 1859.

D. A. HAWKINS,
Per R. C. H.

Filed Oct. 11, 1859.